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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 4, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Alviar; Baird; Flynn; Saunders
Alternates: Chinchilla; Fung
Staff Present: Hernandez; Lim; Corman
Hearing Officers Present: Astle; Audet

DOCUMENTS DEPT.

Commissioner Curran appeared on the record at 5:35 p.m.
Commissioner Duggan appeared on the record at 5:40 p.m.
Commissioner Payne appeared on the record at 5:41 p.m.

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III. Approval of Minutes

MSC: To approve the minutes of December 14, 1982 as corrected: Page three, VIII Old Business, Item A, line 3, the Commissioners will discuss clarification of the PG&E pass through. Page three, VI Communications, Item E, line 1 shall read "The Board was informed in a memo to City Attorney Pennypacker..." (Baird/Alviar: 5-0.)

IV. Consideration of Appeals

A. 106 Landers St.

Tenant appealed Hearing Officer's decision which found that tenant failed to prove a substantial decrease in housing services. Tenant's non-exclusive right to use an outer courtyard for parking was taken away based upon disputes and complaints arising from the use of this space.

MSC: To deny this appeal. (Saunders/Alviar: 5-0.)

B. 250 Munich St.

Tenants appealed Hearing Officer's decision which granted a rental increase in excess of 7 percent pursuant to a landlord petition, based upon comparable rents and increase Operating and Maintenance expenses. Tenants alleged they did not receive notice of hearing.

MSW: To remand this case. (Saunders/Alviar)
MSC: To remand this case. (Saunders/Alviar: 3-2, Chinchilla and Flynn dissenting.)

C. 759 Natoma St.

Landlords appealed Hearing Officer's decision which granted a reduction in rent due to decreases in housing services, such as lack of heat and other miscellaneous services.

MSC: To remand to the Hearing Officer with instructions to amend his findings to decrease the rent 10 percent for failure to provide heat. This shall be retroactive to the purchase date of building by these owners and shall continue until heat is provided. (Baird/Alviar: 5-0.)

D. 6293 A & 6297- Third St.

Landlady appealed Hearing Officer's decision which granted only a 7 percent increase based upon operating and maintenance expenses in addition to a PG&E pass through. A greater operating and maintenance increase was sought and denied due to the debt service cap.

MSC: To deny this appeal. (Alviar/Chinchilla: 5-0.)

E. 61 B Carmelita

Tenant appealed Hearing Officer's decision which granted a 10 percent increase based upon capital improvements. Tenant states that Hearing Officer misstated the base rent.

MSC: To remand to Hearing Officer for technical corrections in the base rent. (Saunders/Alviar: 4-1, Baird dissenting.)

F. 1128 Greenwich St.

Landlord appealed Hearing Officer's decision which granted a \$283.33 reduction in rent for 3 months, based upon the following reduced services: leaks in livingroom, a discolored wall, lack of a working stove, problems with utilities and debris on floor.

MSC: To deny this appeal. (Saunders/Chinchilla: 4-1, Baird dissenting.)

V. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 2586 Post Street; D10-19(E)
Tenant: Thomas Duncan
Landlord: Willie & Lonnie Tolliver

Tenant was served with a 3 day notice to pay rent or quit after withholding rent due to alleged habitability defects. The Hearing Officer found that defects did exist and ordered a reduction in rent, and consequently found that the landlord was attempting a wrongful eviction.

Recommendation: Adopt Hearing Officer's findings and take no further action.

2. 666-A Carolina St.

Consideration of this eviction will be put over.

3. 3121 ½ Steiner Street; D6-29(E)
Tenant: Fritz Jacobowitz
Landlord: Giovani Catena

In August, tenant was served with a notice to vacate on the grounds that the landlord and his wife wished to occupy the unit. This notice was served within 3 months after the tenant filed a summary petition protesting a proposed rent increase of \$525 to \$800 per month. The Hearing Officer found that the attempted eviction is retaliatory and in bad faith as other units had been available for landlord's occupancy during the same time period.

Recommendation: Adopt Hearing Officer's findings and send a warning letter.


4. 942 Jackson Street; D6-34(E)
Tenant: Alexander Kwok
Landlord: Pon Fai Lam

Tenant was served with a notice to vacate on the grounds that the landlord wished to occupy the unit. Tenant contended that the service of the notice was in bad faith and in retaliation for complaints made regarding the habitability of the premises. The Hearing Officer found, given all the circumstances, that it was more likely than not that the landlord was attempting a wrongful eviction.

Recommendation: Adopt Hearing Officer's findings and take no further action.

5. 218 Garfield Street; D10-11(E)
Tenant: Corrine Lawson
Landlord: Willie & Mary O'Neill

In September, tenant was served with a notice to vacate for alleged breaches of the rental agreement. This notice was served approximately a month after the tenant filed a summary petition protesting a proposed rent increase from \$550 to \$650 per month. The Hearing Officer found that any alleged violations



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of the rental agreement had been timely cured by the tenant, and that the landlord was attempting an unlawful eviction merely for the purpose of decontrolling the unit. Landlord filed an unlawful detainer action, but has now dismissed it. However, landlord has since called and threatened to continue pursuing the eviction.

Recommendation: To adopt Hearing Officer's findings and send a letter to landlord warning of possible actions should they attempt wrongful eviction in the future.

6. 2844 Lyon Street, #303; D12-1(E)
Tenant: Geraldine Armendariz
Landlord: Aileen O'Driscoll

In October, tenant was served with a notice to vacate on the grounds that the landlord wished to occupy her unit. This notice was served after the tenant protested the taking away of her garage space by the landlord. In addition, despite the landlord's assertions to the contrary, it appears that the landlord has been receiving mail addressed to that unit. We have received a previous complaint from a tenant at another building owned by this landlord regarding the landlord's attempt to evict her for alleged owner-occupancy. That notice was later rescinded after the landlord extracted a substantial rent increase from the tenant. The Hearing Officer found that the landlord is attempting an unlawful eviction.

Recommendation: To adopt Hearing Officer's findings and refer to the District Attorney for investigation into criminal prosecution for the landlord's current and previous actions.

7. 19 Moss Street, #2; D14-6(E)
Tenant: Francisco Sarmiento
Landlord: William Curry & Wesley Seeds

In October and November, tenant received a notice to vacate on the grounds that the landlord, Curry, wished to occupy the unit. Within the prior year, tenant had twice protested proposed substantial rent increases.

In June 1981, landlord had served another tenant in the same building with a notice to vacate for alleged owner-occupancy, took possession for "a few months" and then moved out. The Hearing Officer concluded that the landlord was acting unlawfully in this case.

Recommendation: Adopt Hearing Officer's findings and send a warning letter.

MSC: To adopt all recommendations as made. (Baird/Saunders: 5-0.)

- B. In the matter of 1275 California St. #4, a letter will be sent out with the Board's signature warning the landlord of the possible consequences of pursuing the eviction action.

VI. Communications

- A. The Board received a copy of a letter from Mr. Jerry Rosenberg of 530 Lake St. He inquired what he could do about low rents in his building.
- B. The Board received a notice from Wally Wortman of the Real Estate Department notifying the Board that the certification for 2000 California will require an additional 30 days.
- C. The Board received a copy of Susan Francis' memo to the City Attorney regarding a Writ filed for 322 Bridgeview.

VII. Director's Report

- A. The Director submitted a memo on the Real Estate Dept./Rent Board Capital Improvement certification issue.
- B. The Executive Director reported that there has been no progress on the appointment of a new Rent Board Commissioner.

VIII. Old Business

- A. The withdrawal order for 2120 Pacific Avenue was signed.
- B. The appeal decision in 140 Crown Terrace, 147 Graystone will be reviewed by Commissioner Flynn.
- C. There will be a public hearing to discuss possible changes to the Rent Board's Rules and Regulations regarding what can be considered a capital improvement versus what is repair and maintenance. The hearing will be on January 25.
- D. The Board clarified the PG&E pass-through problem. A landlord may use the years 1981 and 1982 for a utility pass-through provided that this is the first pass-through and that the tenant has resided there during the comparison periods. The Board also discussed the feasibility of using a percentage method for calculating utility pass-throughs. The Executive Director will check with other jurisdictions.
- E. Commissioner Flynn submitted the most recent final draft of the Annual Report. Commissioners and staff have one week to comment and revise.
- F. The Hearing Officer's/Board quarterly luncheon will be this Friday, January 7, 1983.

IX. New Business

- A. Commissioner Saunders is no longer at PG&E.
- B. For the next 14 weeks, Commissioner Curran will be teaching an 8 - 10 p.m. Tuesday night class. He must leave Rent Board meetings by 7:30 p.m.
- C. The Executive Director will be attending the Transamerica management training program for city employed managers, Monday, January 31, to Thursday, February 3, and half day February 4.

X. Calendar Items

- A. There will be an appeal hearing for 333 Ralston next week, January 11, 1983 at 6:00 p.m.
- B. A public hearing has been scheduled for January 25, 1983.

XI. Remarks from the Public

- A. Don Guerland addressed the Board on when the Board will issue a prospective interest rate increase memo to its hearing officers and commented on the percentage method for utility pass-through.

XII. Adjournment

President Flynn adjourned the meeting at 7:30 p.m.

1/5/83:ap

City and County of San Francisco

Residential Rent Stabilization and Arbitration Board



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, January 11, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

Commissioner Baird called the meeting to order at 5:45 p.m.

II. Roll Call

Commissioners Present: Fung; Chinchilla; Alviar; Payne; Duggan;
Baird; Curran
Commissioners not Present: Saunders
Staff Present: Hernandez; Kubota; Astle

Commissioner Flynn appeared on the record at 5:55 p.m.
Commissioner Curran went off the record at 7:30 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of January 4, 1983 as corrected: Page three, line three "ordered" shall read ordered. (Alviar/Baird: 5-0.)

IV. Consideration of Appeals

A. 1474, 1476, 1478- 11th Ave.

Landlord appealed Hearing Officer's decision on a mathematical error.

MSC: To remand to Sr. Hearing Officer for mathematical corrections as stated in the appeal. (Baird/Chinchilla: 5-0.)

B. 695 Greenwich St.

Landlord appealed Hearing Officer's decision which granted a rent increase based on the C.P.I. maximum on increased operating and maintenance. Tenant Harris appealed on the basis of a technical correction of the base rent and the quality of housing provided in the subject matter building.

MSC: To accept for technical correction of base rent and to deny appeal based on quality of housing and to deny Landlord's appeal. (Payne/Baird: 5-0.)

C. 1845 Green St.

Landlord appealed Hearing Officer's decision which denied an increase based on operating and maintenance due to landlord's failure to submit adequate documentation.

MSC: To deny this appeal. (Chinchilla/Alviar: 4-1)

D. 1001 California St.

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D. 1001 California St.

Landlord appealed Hearing Officer's decision which denied an increase based on comparables due to lack of supporting evidence sufficient to meet the burden.

MSC: To deny this appeal. (Chinchilla/Alviar: 5-0.)

E. 190 Monterey

Tenant appealed Hearing Officer's decision granting a rent decrease based on a decrease service in the availability of laundry facilities as not being comprehensive enough to cover the decrease.

MSC: To deny this appeal. (Payne/Chinchilla: 5-0.)

Father Curran requested that hereforth the records clearly identify the date the appeal was accepted for consideration.

V. Communications

1. The Board received a letter from former Commissioner Paulette Anderson.
2. The Board received a listing of the appointments made by the President of the Board of Supervisors.
3. The President received an edited copy of the Annual Report from Commissioner Saunders and two corrected copies from staff members.

VI. Director's Report

No report

VII. Old Business

1. Commissioner Flynn submitted his interpretation of the P.G.&E. pass-through to be drafted into Policy Directive form.
2. The Executive Director reported that Los Angeles permits a percentage of the rent increase for inclusion of P.G.&E.
3. The President signed warning letters to three landlords for violating the Eviction portions of the Ordinance.
4. Commissioner Flynn will delete the second to the last paragraph on page 28 of the Annual Report regarding vacancy decontrol.
5. Commissioner Flynn shall delete from the Annual Report, the last sentence of paragraph two, page 28, regarding full time Hearing Officers.

MSC: To delete above from Annual Report. (Baird/Payne: 4-1.)

VIII. New Business

None

IX. Appeal Hearing

An appeal hearing was held for 333 Ralston St. commencing at 6:15 p.m. and concluding at 8:20 p.m.

X. Calendar Items

None

XI. Remarks from the Public

1. Ruth Astle commented on the Board's use of Roberts Rules of Order.
2. Don Guerland addressed the Board on the propriety of rounding up or rounding down the 7 percent increase to the nearest dollar. He further commented on the practicality of forcing a tenant to use defective wiring outlets for electrical heaters supplied by the landlord in situations when the building may burn down or the tenant may be electrocuted.

XII. Adjournment

President Flynn adjourned the meeting at 9:00 p.m.

1/12/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
BOARD AND ARBITRATION BOARD, Tuesday, January 18, 1983 at 5:30 p.m. at the State Building
350 McAllister St., #1195

I. Call to Order

Commissioner Flynn called the meeting to order at 5:36 p.m. JAN 31 1983

II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Curran,
Duggan, Flynn, Saunders

Commissioners not Present: Fung, Payne

Staff Present: Corman, Hernandez, Vitrano

Commissioner Curran appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of January 11, 1983.
(Baird/Chinchilla: 5-0)

IV. Consideration of Appeals

A. 1910 Greenwich Street, #2

Tenant appealed Hearing Officer Diane Beaufait's decision on December 7, 1982. The basis for the appeal is a dispute over the amount granted for Operating and Maintenance.

MSC: To deny this appeal. (Saunders/Alviar: 5-0)

B. 2586 Post Street

Landlord appealed Hearing Officer Janet Henley's decision on December 6, 1982. The basis for the appeal centers on the rent reduction granted by the Hearing Officer on a tenant's petition for a substantial decrease in housing services.

MSC: To deny this appeal. (Saunders/Baird: 5-0)

C. 1425-1427 Oak Street

Landlord appealed Hearing Officer Alicia Wicks' decision on December 14, 1982. The basis for the appeal centers on an alleged inequity in the Rent Board's Ordinance and Rules and Regulations.

MSC: To deny this appeal. (Chinchilla/Saunders: 5-0)

D. 777 -5th Avenue, #3

Tenant appealed Hearing Officer Dorothy Dana's decision on December 13, 1982. The basis for this appeal centers on the Hearing Officer denial of the tenant's claim of a substantial decrease in housing services.

MSC: To deny this appeal. (Alviar/Saunders: 5-0)

E. 145 Carmel Street

Landlord appealed Hearing Officer Humberto Cintron's decision on December 10, 1982. The basis for the appeal centers on the Hearing Officer's allocation of capital improvements.

MSC: To deny this appeal. (Alviar/Baird: 5-0)

F. 839 Leavenworth Street, #202, #301 & #403

Tenants involved in a landlords petition appealed Hearing Officer Janet Henley's decision on December 6, 1982. Tenants alleged that the landlord committed fraud and perjury at the hearing.

MSC: To deny this appeal. (Saunders/Alviar: 5-0)

V. Communications

No communications were received this week.

VI. Remarks from the Public

1. The tenant involved in the appeal consideration of 1910 Greenwich voiced her concerns and comments regarding, Rules and Regulations 610.
2. David Guber inquired about next weeks capital improvements hearing.

VII. Directors Report

1. Mr. Corman made a report to the Board concerning the details and status of a landlord/tenant case pending before the Court of Appeals. The case involves a challenge to private cause of action.
MSC: Instruct both the Executive Director and William Corman the Eviction Coordinator to write a declaration addressing the situation.
(Saunders/Chinchilla: 5-0)
2. Mr. Hernandez reported the Kopp amendment involves the passing on of a landlord's tax rebate to tenants has been postponed from the PH and D calendar.
3. Mr. Hernandez also reported that he informed the members of the PH & D Committee that a proposed broadening of current heat requirements applies not only to residential hotels, but to all residential rental units in the city.

4. It was announced that Mr. Hernandez has been asked to appear before the Grand Jury on May 2, 1983. The reason for this request is due to the Grand Jury's desire to understand the operation of the Rent Board.

VIII. Old Business

1. A letter referring the 2844 Lyon Street case to the District Attorney was signed by President Russell Flynn.
2. The Decision on Appeal involving 333 Ralston Street was signed by President Russell Flynn.

IX. New Business

1. It was announced that Commissioner Fung has been appointed by the Mayor to serve on the Veterans Commission. He will be leaving the Rent Board Commission.
2. President Flynn discussed the procedural rules governing next weeks public hearing. It was agreed to limit each individual presentation to 3 (three) minutes; representatives of organizations shall be limited to 5 (five) minutes per presentation.
3. President Flynn also noted that the final copy of the annual report will be presented to the Board next week, January 25, 1983.

X. Calendar Items

There will be a appeal considerations next week. The public hearings on capital improvements will commence at 6:30 p.m. It was noted that over 200 notices regarding the hearing were mailed on January 10, 1983.

XI. Adjournment

President Flynn adjourned the meeting at 7:00 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, January 25, 1983 at 5:30 at the State Building
350 McAllister St. #1195

I. Call to Order

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President Flynn called the meeting to order at 5:36 p.m.

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II. Roll Call

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Commissioners Present: Alviar, Chinchilla, Curran, Flynn

Commissioners not Present: Payne

Staff Present: Hernandez, Francis, Wolf, Astle, Hestor

Commissioner Baird appeared on the record at 5:55 p.m.

Commissioner Saunders appeared on the record at 5:39 p.m.

III. Approval of Minutes

MSC:

To approve the minutes of January 18, 1983 as corrected: Page 1, item IV C, line 3 shall be corrected to read "inequity" instead of "iniquity"; page 2, item IV E, shall be corrected to read "The basis of the appeal centers on the Hearing Officer's allocation of capital improvements"; page 2, item V shall be corrected to read "received" instead of "recieved"; page 2, item VII 2 shall be corrected to read "Mr. Hernandez reported that the Kopp amendment involves the passing on of a landlord's tax rebate to tenants..."; page 2, item VII 3, line 2 shall be corrected to read "broadening" instead of "broad- ing"; page 3, item IX 2 shall be corrected to read "It was agreed to limit each individual presentation to 3 (three) minutes; representatives of organizations shall be limited to 5(five) minutes per presentation." (Chinchilla/Alviar: 5-0.)

IV. Consideration of Appeals

A. 666 A Carolina St.

Landlord appealed Hearing Officer's decision upholding the tenant's right to have withheld rent, but denying a decrease in housing services. The issue of timeliness was raised by both parties.

MSC:

To accept this appeal on the record and allow the parties a few minutes to address the Board on the issues raised by this appeal. (Alviar/Saunders: 4-1, Chinchilla dissenting.)

DOCUMENTS

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1912

B. 440 Davis Court

Landlord appealed Hearing Officer's decision granting a 7 percent increase on the grounds that the Rent Board had no jurisdiction over this HUD-financed building prior to October 1st. The issue of a 30-day notice requirement was also raised.

MSC: To accept this appeal at the Board level and hold a hearing de novo. (Baird/Alviar: 5-0.)

C. 2144 Green St.

Tenant appealed Hearing Officer's decision granting an increase based on capital improvements and denying a decrease in housing services, due to tenants' having had no chance to examine landlord's documentation.

MSC: To remand this case to the same Hearing Officer on the issue of capital improvements only to give tenants the opportunity to examine landlord's documentation. (Baird/Saunders: 4-1, Flynn dissenting.)

D. 2844 Lyon St.

Landlord appealed Hearing Officer's decision granting a rent reduction due to the loss of garage space and recommending that this case be referred to the District Attorney due to the appearance of an unlawful eviction. Landlord alleged denial of the right to counsel.

MSC: To deny this appeal. (Saunders/Chinchilla: 5-0.)

E. 695 3rd. Ave.

Landlord appealed Hearing Officer's decision upholding a rent increase due to the presence of an additional party, a baby, in the unit. Landlord alleges that the amount granted by the Hearing Officer was a typographical error.

MSC: To remand this case to the same Hearing Officer to consider the issues raised in this appeal. (Baird/Saunders: 4-1, Chinchilla dissenting.)

F. 2011 Vallejo St.

Landlord appealed Hearing Officer's decision which granted tenant a rent reduction due to a decrease in housing services. Landlord maintains that he was promised a postponement of the hearing by a Rent Board staff member and that he was denied due process.

MSC: To accept this appeal and remand to the same
Hearing Officer. (Baird/Alviar: 5-0.)

V. Communications

No communications were received this week.

VI. Remarks from the Public

1. Leland Evans, counsel for the landlord at 2844 Lyon Street, addressed the Board regarding the denial of landlord's appeal.
2. Conrad Bruce, attorney for the Golden Gateway, informed the Board that Kathryn Pennypacker is preparing an opinion on the issue presented by the appeal in this case and requested that the Board defer action until such opinion from the City Attorney is available.

VII. Director's Report

There was no Director's report.

VIII. Old Business

None

IX. New Business

None

X. Calendar Items

No items were placed on calendar.

XI. Public Hearing

A public hearing on capital improvements commenced at 6:30 p.m.; the below-named persons addressed the Board on this issue: Michael Harney; Ruth Astle; Don Guerland; Joe Lacey (Old St. Mary's Housing Committee); Paul Wortelle (Affordable Housing Alliance); James Bell (Golden Gateway Tenants' Association); Tim Carrico; Joel Panzer (Professional Property Management Association); Sue Hestor; Susan Maddox; Conrad Breece; Arthur Lander; Tom Barber; Polly Thomas (Legal Assistance to the Elderly); H.C. Peterson; Mary Lou Thoenges; Kathleen Baker; Bob Sheppard; Al Cavey; Richard Morgese; Claude Scovill; Jim Coski; and Ann Kayloff.

XII. Adjournment

President Flynn adjourned the meeting at 8:30 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 1, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

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I. Call to Order

Acting President Saunders called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Chinchilla; Curran; Payne; Saunders

Commissioners not Present: Alviar; Duggan; Flynn

Staff Present: Hernandez; Corman; Harrington; Astle

Commissioner Baird appeared on the record at 5:45 p.m.

III. Approval of the Minutes of January 25, 1983

MSC: To approve the Minutes of January 25, 1983 as corrected: Page 2, Item VI, paragraph 2 shall be corrected to read "Conrad Breece" instead of "Conrad Bruce"; page 1, Item III, mid-paragraph shall be corrected to read "the" instead of "tha." (Chinchilla/Curran: 3-0.)

IV. Consideration of Appeals

A. 833-837 Greenwich St.

Landlord appealed Hearing Officer's decision finding that the building was not owner-occupied and therefore not exempt from the rent stabilization provisions of the ordinance.

MSC: To deny this appeal. (Baird/Chinchilla: 4-0.)

B. 515-517 Faxon St.

Landlord appealed Hearing Officer's decision allowing only part of the operation and maintenance costs asked for and disallowing a \$45.00 per month PG&E pass through.

MSC: To deny this appeal. (Curran/Baird: 4-0.)

C. 2150 Balboa St.

Landlord appealed Hearing Officer's decision granting a \$45.00 per month rent reduction because of landlord's failure to make repairs.

MSC: Accept and remand with directions to Hearing Officer to calculate rent as a failure to repair regarding how much rent should be reduced by denying all or part of the seven percent increase rather than a reduction for decrease in services. (Curran/Saunders: 2-2.)

MSC: Accept the appeal at the Board level and have a hearing only on matters pertaining to the repair of the roof and whether or not should be treated as a decrease in service or denial of the 7 percent increase. (Baird/Chinchilla: 4-0.)

V. Communications

- A. A letter was received from the Golden Gate Hotel Association regarding Hearing Officer Laura Swartz.
- B. A letter was received from H. E. Thompson of the Powell Pine requesting information regarding the recovery of costs for installing an antenna.

MSC: The Board advises that the landlord be informed that this matter be handled in accordance with regular Board procedures. (Baird/Chinchilla: 4-0.)

- C. A letter was received from Thomas Flowers, a tenant from Golden Gateway, regarding a capital improvements application filed with the Real Estate Department.

VI. Consideration of Allegations of Wrongful Evictions

- A. 1041 Valencia St. #8; D12-22(E)
Tenant: John Gambaccini
Landlord: Mary Moore

Tenant was served with a 30-day notice to vacate by landlord's agent, City Realty, which failed to state any just cause for terminating the tenancy. At the hearing, landlord alleged that tenant was causing damage by letting water run in his apartment. The Hearing Officer found these claims to be unsubstantiated and concluded there was a wrongful eviction. It appears that landlord has now decided not to pursue the eviction.

Recommendation: Adopt Hearing Officer's findings and send letters to landlord and City Realty advising them of requirements for a proper notice and that strict compliance with the law is required.

- B. 345 Leavenworth St. #303; D8-13(E)
Tenant: Horace R. Oakley
Landlord: Elizabeth Carlin

Tenant was served with a 30-day notice to vacate on the basis of a breach of the rental agreement and nuisance for having a dog. The Hearing Officer found that tenant's agreement did not prohibit pets and no nuisance was proved by landlord, and, therefore, the eviction here is wrongful.

Recommendation: Adopt Hearing Officer's findings and send a letter to landlord warning of possible consequences should an eviction be pursued.

- C. 665 Eddy St. #34; D10-4(E), D10-37(E)
Tenants: Eileen Brennan and Carlos Silva
Landlord: Gerhard Kuster

Tenants, mother and son, were served with a series of 3-day notices claiming various arrearages in their rent. Tenants maintained that their proper rent was \$210.00 per month, and this was adjudged correct in a Small Claims Unlawful Detainer Action, which the landlord had filed, which was heard on November 17, 1982. The Hearing Officer found a wrongful eviction based on the fact that the 3-day notices all demanded rent in excess of the \$210.00 per month which was found proper. Numerous other petitions have been filed against this landlord for defects and failure to repair at this property address. A hearing is scheduled for February 4. Landlord has not continued to pursue the eviction of these tenants.

Recommendation: Adopt Hearing Officer's findings and send a letter to the landlord cautioning him not to follow this course of conduct in the future and advising him of his obligations under the law.

- D. 1694 B Green St.; D14-4(E)
Tenant: William Jensen
Landlord: James Otterlee

On October 18, 1982, tenant was served with a 30-day notice to vacate on the grounds that landlord's parents wished to occupy the unit. Over the past four years, this landlord has given numerous other notices to vacate alleging similar grounds, but neither he nor members of his family have ever taken occupancy once a unit has become vacant. Because of these practices, the District Attorney has just recently filed a criminal complaint for unlawful eviction and unfair business practices against Otterlee. In this case, the Hearing Officer found that the landlord was not seeking to recover possession of the unit in good faith or with honest intent.

Recommendation: Adopt Hearing Officer's findings and refer to District Attorney as part of criminal case.

- E. 356 San Carlos St.: D12-40(E)
Tenant: Sonia Alarcon
Landlord: Virginia Ayon

In February 1982, tenant received a notice to vacate on the grounds that landlord's son wanted to occupy her unit. This notice was served within 30 days of a Hearing Officer's decision in tenant's favor. Landlord did not pursue this eviction in court. In October 1982, tenant received a second notice to vacate stating that needed

repairs required the tenant to vacate. The Hearing Officer found that the landlord had not applied for any permits and that, moreover, there was no need for the tenant to vacate the unit in order for the work to be accomplished. On this basis, the Hearing Officer found a wrongful eviction. Recent contact with the tenant indicates that landlord is accepting rent and not pursuing the eviction.

Recommendation: Adopt Hearing Officer's findings and send a letter to landlord cautioning against future wrongful conduct.

F. 1319- 46th Ave. #104; D12-33(E)

Tenant: Maria Pobre

Landlord: Hilda Lai

Tenant was served with a notice to vacate on the grounds that the landlord wished to occupy her unit. Landlord had previously served similar notices on other tenants in the building claiming need for both herself and member of her family. A few months prior to this notice, landlord was found attempting a wrongful eviction on another tenant in this building allegedly seeking use for landlord's sister. Subsequent to the present hearing but before the decision was rendered, landlord rescinded the notice to vacate. The Hearing Officer found that landlord was not acting in good faith or with honest intent.

Recommendation: Adopt Hearing Officer's findings and send a letter to landlord warning of potential prosecution for future wrongful evictions.

G. 2102 Filbert St., #3; D14-20(E)

Tenant: Phyllis Carroll

Landlord: Susan West

On November 4, 1982, tenant was served with a notice to vacate on the grounds that the landlord wanted to occupy the unit. This was served even though there was another comparable vacant unit in the building. Tenant's offer to take the vacant unit was rejected by landlord. On November 26, 1982, tenant was served with a 3 day notice claiming she owed \$50.00 more above her \$200.00 rent. An Unlawful Detainer Action has been filed on the basis of the 3 day notice. The Hearing Officer found both that tenant's proper rent is \$200.00 per month and that the 30 day notice was not served in good faith or with honest intent. The Unlawful Detainer Action is still pending.

Recommendation: Adopt Hearing Officer's findings and send a letter to landlord warning of possible consequences if the Unlawful Detainer Action is continued.

- H. 1423- 26th Ave.; D10-15(E)
Tenant: Ann Hardeman
Landlord: Steve Barbagelata

Tenant was served with a 3 day notice to vacate shortly after she contested a proposed rent increase sought by the landlord. The grounds for the notice were for occupancy by the landlord's daughter and renovation work. Landlord, although duly noticed, did not attend the hearing. No permits for any work have been produced by the landlord. The Hearing Officer found that landlord's motive in serving the notice was retaliatory and that possession was not sought in good faith or with honest intent. Tenant and landlord have agreed to a settlement with tenant relinquishing possession of the unit at the end of June.

Recommendation: Adopt Hearing Officer's findings and send a letter to landlord cautioning him against future conduct.

- I. 2055 California St. #102; D14-39(E)
Tenant: Elizabeth Blersch
Landlord: Pat Mizuhara

Tenant received a notice to vacate claiming she breached her rental agreement by having a washing machine in her unit. Landlord refused to attend the hearing. A copy of the rental agreement was produced showing no prohibition of the type claimed by the landlord. The Hearing Officer found a wrongful eviction. It now appears that landlord is not going to pursue the eviction.

Recommendation: Due to this landlord's past conduct as well as her actions in this case, to hold a hearing de novo for the purpose of possible referral for criminal prosecution.

MSC: To accept staff recommendations on above cases.
(Baird/Chinchilla: 4-0.)

VII. Old Business

- A. Commissioner Saunders will attempt to re-draft the PG&E Policy Directive.

VIII. New Business

There was no new business.

IX. Calendar Items

- A. 2/8/83 - 666 Carolina
B. 2/15/83 - 440 Davis Court

X. Remarks from the Public

- A. Mr. Gil Poy Yee addressed the Commissioners on the denial of his appeal on 833-837 Greenwich St.

XI. Adjournment

Acting President Saunders adjourned the meeting at 6:40 p.m.

2/2/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, February 8, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:35 p.m.

FEB 14 1983

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II. Roll Call

Commissioners Present: Chinchilla; Curran; Alviar; Saunders; Payne;
Baird; Duggan

Commissioners not Present: None

Staff Present: Hernandez; Francis; Astle

III. Approval of the Minutes of February 1, 1983

MSC: To approve the minutes of February 1, 1983 as
corrected. (Saunders/Baird: 5-0.)

IV. Consideration of Appeals

A. 1870 Pacific Ave.

Landlord appealed Hearing Officer Ruth Astle's decision which allowed rent increases justified by increases based on debt service. The landlord's appeal stated that the Hearing Officer erred in the amounts she allowed, and made mathematical errors in her computation of the limitations set forth in Section 6.10(a) of the Rent Board's Rules and Regulations. Tenants also filed objections, stating that the increases granted by the Hearing Officer were too high.

There was discussion by the Board with the original Hearing Officer. Thereafter, the consensus of the Board was that the matter be continued until next week so that Ms. Astle could further review the landlord's appeal and the tenant's objections. The Board will consider this matter on February 15, 1983.

B. 48- 6th St.

The landlord appealed Hearing Officer Steven Carp's decision which ordered a decrease in rent due to lack of heat. The landlord's appeal stated that the notice of hearing was sent to the wrong person.

MSC: To accept the appeal de novo before the Board.
(Saunders/Alviar: 4-1, Chinchilla dissenting.)

V. Appeal Hearing: 666 A Carolina Street

Landlord Standish Marks appeared, as did Marilyn Kalman who represented the tenant, Linda Handy. The tenant filed a petition for a decrease in rent, for although Ms. Handy had rented her unit from Mr. Marks on August 1, 1982, she did not move in until August 12, 1982. Tenant alleged that she was not able to move in because of missing carpets due

to a sewage leak, and landlord stated that the tenant had told him she would be out of the country. The Hearing Officer, Sue Hestor, granted a decrease in rent of \$177.42 for 10 days in August.

MSC: That the Hearing Officer's decision be reversed; the tenant shall not be entitled to a decrease in rent. (Baird/Saunders: 5-0.)

VI. Communications

- A. A letter was received from Joseph Lacey of Old St. Mary's Housing Committee regarding increases based on capital improvements.
- B. A letter was received from Paul Wartelle regarding increases in rent based on capital improvements.
- C. A letter was received from landlord Aileen O'Driscoll regarding a decision she received from the Rent Board.
- D. A letter was received from Hearing Officer Ruth Astle expressing her concerns with the application of Section 6.10(a) to certain situations.
- E. Copies of two Municipal Court decisions were given to members of the Board. These decisions related to (1) security deposits and (2) termination of tenancy.

VII. Director's Report

- A. The Planning, Housing and Development Committee of the Board of Supervisors has passed legislation regarding requirements for heat and hot water for apartments. This legislation will go before the full Board on February 14, 1983.
- B. The Mayor signed emergency legislation regarding heat and hot water requirements for residential hotels.
- C. The Executive Director reported that 136 hearings were held in the month of January (21 on evictions and the rest on rent). Over 3200 people were counseled by staff in January with the most frequently asked questions being: (1) capital improvements- 673; (2) habitability- 461; (3) evictions- 353. In January, 116 Tenant Petitions and 52 Landlord Petitions were filed.
- D. The Executive Director attended a seminar on managing motivation for high performance.
- E. Certain sections of the Residential Assistance Program were discussed.

IX. New Business

- A. The Board discussed the filing of a Declaration by on of the staff members.
- B. In reviewing Section 6.10 of the Rules and Regulations, the Board noted that due to clerical error a section had been omitted.

MSC: That Section 6.10(c) of the pre-April, 1982 Rules and Regulations be immediately reinstated to the Rules and Regulations. (Flynn/Baird: 5-0.)

- C. The Real Estate Department has requested clarification on certain items pertaining to Golden Gateway's application for certification. The Board asked that these questions be put in writing.

X. Calendar Items

A. Appeal Hearings:

- 1. 440 Davis Court: February 15, 1983
- 2. 48- 6th St. #7: March 8, 1983

XI. Remarks from the Public

There were no remarks from the public.

XII. Adjournment

President Flynn adjourned the meeting at 7:55 p.m.

2/10/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, February 15, 1983 at 5:30 p.m. at the State Building

350 McAllister St. #1195

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I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Chinchilla; Duggan; Saunders; Flynn; Payne

Commissioners not Present: Alviar

Staff Present: Hernandez; Kubota; Astle

Commissioner Curran appeared on the record at 5:45 p.m. and went off the record at 7:35 p.m. Commissioner Baird appeared on the record at 6:00 p.m.

III. Approval of the Minutes of February 8, 1983

MSC: To approve the minutes as corrected: Page one, Consideration of Appeals, second paragraph shall read "consensus of the Board"; page two, Director's Report, third paragraph shall read "over 3,200 people were counseled by staff in January about; page three, New Business, second paragraph shall read "due to an error". Henceforth on the Consideration of Appeals, the Hearing Officers' names shall be deleted in the narrative on the minutes. (Saunders/Chinchilla: 4-0.)

IV. Consideration of Appeals

A. 20- 19th Avenue

Landlord appealed Hearing Officer's decision denying a utilities pass through due to insufficient documentation and improper calculation.

MSC: To deny this appeal. (Saunders/Duggan: 3-1, Flynn dissenting.)

B. 757 Natoma Street

Tenant appealed Hearing Officer's decision denying a rent increase until specified violations have been corrected by the landlord. Tenant seeks the same Decision and Order as applied to another tenant at another hearing by a different Hearing Officer.

MSC: To deny this appeal. (Duggan/Saunders: 4-0.)

The Commissioners unanimously praised Ms. Roduit for this Findings of Fact and Conclusions of Law.

C. 32 Ashbury Street

Landlord appealed Hearing Officer's decision granting a rent increase based on the annual 7 percent and comparables. Landlord seeks a comparables increase more than that awarded by the Hearing Officer.

MSC: To remand to a new Hearing Officer. (Duggan/Saunders: 5-0.)

D. 3467 Mission Street

Tenant appealed Hearing Officer's decision on the grounds that the case had been rescheduled for another day and time and they were never notified of the new day and time, hence they did not appear at the hearing.

MSC: To remand to the same Hearing Officer. (Chinchilla/Curran: 5-0.)

E. 860 Sutter St. #516

Tenant appealed Hearing Officer's decision granting a rent reduction for a decrease in services. Tenant cites no grounds for his appeal.

MSC: To deny this appeal. (Saunders/Chinchilla: 3-1, Duggan dissenting.)

F. 1870 Pacific Street

Landlord appealed Hearing Officer's decision granting a rent increase based on operating and maintenance expenses. Landlord contends that mathematical errors are present in the decision and further that the Hearing Officer utilized an improper formula in the calculations.

MSC: To deny this appeal. (Saunders/Curran: 5-0.)

V. Communications

- A. The Board received a letter from George Kustner, tenant at 860 Sutter Street, #516.
- B. The Director received a letter from Kathryn A. Pennypacker, Deputy City Attorney on notice requirements for fixed term tenancies.
- C. The Board received a letter from the tenants at 1763 Golden Gate requesting a clarification hearing on a Stipulated Agreement on Appeal heard by the Board on September 17, 1982. A letter will be sent by the Director inquiring if the terms of the Stipulation have been met and if not, what further action can be taken by the Board on this matter.

- D. The Board received a letter from Sarah M. Noble, attorney for the tenants at 867 Fell Street and 2185 O'Farrell Street, seeking information on landlord Walter Varakin's progress in dismissing the Unlawful Detainer actions against her clients. This matter was referred to the staff eviction attorney for follow-up.
- E. The Director received a letter from the Real Estate Department seeking an interpretation on capital improvements made by the Golden Gateway Center on the issues of: 1) jurisdiction, 2) leases, 3) refrigerator installation, and 4) offsetting the amount received by the landlords for the sale of old refrigerators.

MSC: To refer the Real Estate Department to our legal counsel at the City Attorney's Office on points 1 and 2 and draft a policy letter addressing points 3 and 4. (Baird/Curran: 5-0.)

VI. Director's Report

- A. By a vote of 2-0, the Planning Housing and Development of the Board of Supervisors passed to the full Board, a recommendation vacancy control be taken out of the RAP loans for the North of Market area.
- B. By a vote 2-0, the above referenced Committee, passed to the full Board, a recommendation that annual rent increases be decreased by any tax reductions received by the landlord.
- C. The Director requested that the Commissioners submit their annual Conflict of Interest Statements by April 1, 1983.

VII. Old Business

- A. The Board had a general discussion on capital improvements with no final recommendation or action taken.
 - i) Commissioner Saunders praised Old St. Mary's arguments against capital improvements and voiced his opinion that capital improvements are a function of ordinary maintenance and should be categorized as such and further, that any prudent business person takes ordinary maintenance into consideration when purchasing real property.
 - ii) Commissioner Baird asked if the Board had any feelings about the Rent Board taking over certified capital improvements from the Real Estate Department as feasible for the staff.
 - iii) Commissioner Chinchilla voiced his concern that tenants have an appeal mechanism to challenge the alleged costs of capital improvements.

- iv) The Director suggested that painting be moved into the ten year amortization, presently five year amortization, and all other capital improvements be put under operating and maintenance with a 7% CPI computation figure or present CPI whichever is higher.

He will draft this in writing for future discussion.

VIII. New Business

None

IX. Appeal Hearing

1. 440 Davis Court #617 - Golden Gateway

The Board commenced the hearing at 6:25 p.m. Conrad Breece appeared as counsel for the landlord; Robert Spicker appeared as manager of the complex. Tenant Rosalie Smith did not appear. At issue is whether the Rent Board had jurisdiction over a rent increase that was noticed tenant prior to October 1, 1982. Upon advise from the City Attorney's office on notice requirements on fixed term leases, the Board acted accordingly.

MSC: To find that the Rent Board had no jurisdiction over this rent increase and to vacate the Hearing Officer's decision. (Baird/Saunders: 5-0.)

X. Calendar Items

A. Appeal Hearings scheduled:

- i) 2150 Balboa Street - February 22, 1983
- ii) 2055 California Street - March 1, 1983
- iii) 48- 6th Street - March 3, 1983

XI. Remarks from the Public

- A. George Kustner complained about his experiences in dealing with the Rent Board staff with dates and names and accused the staff of "dilatatory and delay" practices with regarding to the availability of tape recordings of the hearings.
- B. Mrs. Rider suggested a three prong approach in changing the Rent Ordinance.
 - i) To eliminate all pass-throughs
 - ii) to have the Board strongly recommend central heating as the most cost effective means of heating as opposed to electrical wall heaters.

- iii) to lower the statutory guideline of a 7% annual rent increase to 3% in line with the cost of living increases.

XII. Adjournment

President Flynn adjourned the meeting at 8:25 P.M.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, February 22, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

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President Flynn called the meeting to order at 5:40 p.m.

FEB 25 1983

II. Roll Call

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Commissioners Present: Alviar, Flynn
Alternates: Chinchilla, Curran, Duggan, Payne
Commissioners not Present: Saunders
Staff Present: Hernandez, Lim, Astle

Commissioner Baird appeared on the record at 5:45 p.m.

III. Approval of Minutes

MSC: To approve the minutes of February 15, 1983 as corrected. Page three, VII Old Business, item ii) shall be corrected to read that Commissioner Baird felt the present system for certification of capital improvements was the least preferable. Having the Rent Board do appeals of capital improvement certifications would be better than the present system, but inferior to the Rent Board doing all certification of capital improvements. Page four, X Calendar Items, item iii) shall be corrected to read March 8, 1983. XI Remarks from the Public, Item A, line three, the work "with" shall be deleted. Item B, Mrs. Rider shall be corrected to Mrs. Tusch. (Alviar/Chinchilla: 5-0.)

IV. Communications

- A. The Board received a copy of a letter from Ms. Shirl Tesch.
- B. The Board also received a copy of the Kopp amendments to the Rent Ordinance regarding a rent reduction to tenants based on landlord's tax deduction.
- C. The Board also received a copy of a proposal to amend 6.10 of the Rules and Regulations drafted by Ruth Astle.

V. Director's Report

- A. The Executive Director informed the Commissioners that the Board of Supervisors approved the first reading of the RAP Amendments

to remove vacancy control in the North of Market RAP area. There was no discussion or debate by the Supervisors on this matter.

- B. The Kopp Amendment to the Ordinance has been continued one week by the Board of Supervisors.
- C. The Director reported that there has been a marked decrease in "regular petitions" filed at the Board (regular meaning landlord petitions and tenant petitions for decrease in services, failure to repair/maintain.) Petitions which have been filed recently have been RAP or HUD, Eviction, Summary Petitions and increases in Operating and Maintenance.
- D. The Director informed the Board that approximately seven Hearing Officers have been terminated. This is due to the decrease in regular petitions. The Hearing Officers who were scheduled for hearings in a weekly basis have been placed on an every-other-week hearing schedule.
- E. The Director also informed the Board that Hector Chinchilla will be the regular tenant representative on the Board. Doug Chan has been appointed to the tenant alternate position and Stan Moy has been appointed the landlord alternate.

VI. Old Business

- A. The Board signed a decision regarding 666-A Carolina.
- B. The Board discussed a proposed amendment to 6.10 and the Rules and Regulations drafted by Ruth Astle.

VII. Appeal Hearing

- A. 2150 Balboa

The hearing commenced at 6:30 p.m. Present were tenants Caroline Carlisle and Alex Goulaevsky. Also present was Richard Serrato who is the property manager and agent for the landlord, John Taube. The testimony dealt with leaks in the ceilings of both tenants.

MSC: To uphold the Hearing Officer's decision with an amendment to delete footnote *(4) on page 6 and delete line 6-15 on page 8. (Baird/Chinchilla: 3-2, Flynn and Payne dissenting.)

VIII. New Business

- A. The Director informed the Board that his proposed amendments to 6.12 of the Rules and Regulations will be mailed to all the Commissioners.
- B. The Executive Director informed the Board that hearings for March 3-4 will be cancelled and the office will run with a

skeleton crew because of the proximity of the office to the demonstrations planned for the Queen of England and President Reagan. Commissioner Payne wanted the record to reflect his feeling that the office should be fully staffed on these two days.

- C. Commissioner Curran announced that he will be Chief Counsel for the University of San Francisco beginning in August.

IX. Calendar Items

- A. There will be an eviction hearing on March 1, 1983 at 6:00 p.m. for 2055 California Street.
- B. There will be an appeal hearing on March 8, 1983 at 6:00 p.m. for 48- 6th Street.

X. Adjournment

President Flynn adjourned the meeting at 7:30 p.m.

2/23/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, March 8, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Vice President Saunders called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Baird, Chinchilla, Duggan, Payne,
Saunders

Commissioners not Present: Alviar

Staff Present: Hernandez, Wolf

Hearing Officers Present: Astle

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Commissioner Curran appeared on the record at 5:45 p.m.

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Commissioner Flynn appeared on the record at 5:50 p.m.

Commissioner Curran went off the record at 7:35 p.m.

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III. Approval of Minutes

MSC:

To approve the minutes of March 1, 1983 as corrected: Page 2, VI Director's Report item B shall be corrected to read "City Attorney George Agnost has begun assigning writs [instead of "cases"] to the division that handles writs." V. Communications item B shall be corrected to read "a habitability problem involving caulking has not been attended to." Page 3 motion 4 MSW should be added to signify that this motion had been withdrawn. (Baird/Chinchilla: 5-0)

IV. Consideration of Appeals

A. 947 Geary

Landlord appealed Hearing Officer's decision on remand reversing a rent reduction granted by a previous Hearing Officer and denying a P.G. & E. pass-through due to insufficient documentation. Landlord maintained that the supporting documents were delivered to the Rent Board Office.

MSC:

Remand this case to the same Hearing Officer to consider the issue of P.G. & E. only.
(Baird/Chinchilla: 5-0)

B. 2697 Mission

Tenant appealed Hearing Officer's decision denying a rent reduction based on an alleged decrease in housing services.

MSC: To deny this appeal. (Saunders/Flynn: 3-2;
Baird and Curran dissenting)

C. 759 Natoma

Landlord appealed a Hearing Officer's decision on remand granting a 10% reduction in rent and denying a 7% rent increase given one month prior to the anniversary date.

MSC: To deny this appeal. (Baird/Chinchilla: 5-0)

V. Appeal Hearing

The hearing commenced at 6:05 p.m. Present were tenant Rocco Lapergola and his counsel, Randy Shaw of the Tenderloin Housing Clinic, and landlord Kanti Patel. The landlord was appealing Hearing Officer's decision granting tenant a 50% reduction in rent due to a lack of heat. Tenant's attorney also alleged that a 7% increase given on January 1, 1983 should be denied due to landlord's failure to perform needed repairs.

MSC: To consider the issue of the January 1st rent increase and concomitant failure to repair along with the rent reduction granted by the Hearing Officer currently under consideration. (Chinchilla/Curran: 5-0)

MSC: To uphold the Hearing Officer's decision with an amendment to continue the rent reduction until heat was restored on February 16, 1983. (Baird/Chinchilla: 4-1; Flynn dissenting).

MSC: Any rent increase noticed prior to February 16, 1983 is void. If a rent increase is noticed subsequent to March 8, 1983, lack of heat shall not be grounds for a tenant petition if the present circumstances still prevail. Until such time as sums owing to the tenant are reimbursed, no rent shall be owed. (Baird/Chinchilla: 5-0).

VI. Communications

- A. The Board received copies of letters from Mr. Chaiman Patel and Michael Carter of Star Realty.
- B. The Board received copies of two letters commending Hearing Officers Ruth Astle and Alicia Wickes.
- C. The Board received a copy of the March, 1983 Rules and Regulations incorporating the December 1982 and January 1983 changes.

- D. Board members received a copy of a memo from John Taylor, Clerk to the Board of Supervisors, regarding the new Conflict of Interest forms.

VII. Director's Report

- A. The Executive Director explained the current status of the City's action regarding the status of temporary employees.
- B. The Executive Director expressed his concern over a recent court decision regarding security deposits.
- C. The Executive Director informed the Board that the RAP amendments will be signed on the morning of March 9, 1983 and will take effect thirty days hence.
- D. The Executive Director invited the Board members to attend the swearing-in of the new Commissioners on March 23rd at 11:00 a.m.

VIII. Old Business

- A. The Board discussed the appearance of unlawful evictions taking place at 2032 Mission Street and agreed to schedule a hearing on this matter before the Board on March 22, 1983.
- B. A phrase inadvertently left out of the April 1, 1983 amendments was pointed out to the Board.
- C. The Board discussed the issue of capital improvements and operating and maintenance expenses. President Flynn agreed to draft possible amendments to Section 6.10 of the Rules and Regulations. The Executive Director will contact the City Attorney's Office and request language removing the Real Estate Department certification process from capital improvements. A letter will be drafted to the Mayor informing her of the course of action the Board decides to pursue.

IX. New Business

There was no new business.

X. Adjournment

President Flynn adjourned the meeting at 8:30 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, March 15, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

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MAR 22 1983
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I. Call to Order

President Flynn called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Alviar, Saunders, Flynn, Payne

Staff Present: Hernandez, Corman

Commissioner Chinchilla appeared on the record at 5:37 p.m.

Commissioner Baird appeared on the record at 5:39 p.m.

Commissioner Curran appeared on the record at 5:41 p.m.

Commissioner Duggan appeared on the record at 5:49 p.m.

III. Approval of Minutes

MSC: To approve the minutes of March 8, 1983.
(Saunders/Alviar: 3-0)

IV. Communications

A. The Board received a copy of a letter from Elsie Nguyen to Mayor Feinstein.

B. The Board received a copy of a letter from Bruno Bereshnoy and David L. Stevenson to Susan Francis.

C. The Director gave the Board the following statistics for February 1983:

- 1,278 Landlord contacts
- 2,473 Tenant contacts
- 24 Summary Petitions filed
- 45 Reports of Wrongful Evictions filed
- 137 Landlord or Tenant Petitions filed
- 96 Hearings--23 Eviction Hearings.

D. The Board received a copy of a column in the Progress about the Rent Ordinance.

E. The Board received a letter from Ted McCalla regarding the 48 -6th Street Decision.

V. Director's Report

- A. The Director informed the Commissioners that they must fill out parts A.B & C of the conflict of Interest Statements.
- B. The Director raised the problem of repeat Landlord offenders of the Summary Petition process, and the question of what should be done to more effectively enforce the Ordinance as to these Landlords. The Director said that in the future a hearing will be scheduled after the third separate instance of a Landlord receiving notice.

VI. Old Business

- A. The Commissioners were informed that the investigation regarding possible legal action against the Landlord at 2055 California Street was still continuing.

- B. 48 -6th Street -:

MSC:

To amend the Decision to add the following sentence: "If the tenant voluntarily moves out prior to November 1, 1983, the Landlord should pay the amount of any rent not previously credited to his rental obligation up until the amount of \$746.48".
(Baird/Chinchilla: 5-0)

- C. 440 Davis Court Decision was signed by President Flynn.
- D. 2055 California Street Decision was signed by President Flynn.
- E. President Flynn stated that he should have his draft of Rules and Regulations Section 6.10 ready by the next meeting.

VII. Calendar Items

A Hearing on 2032 Mission Street is scheduled for March 22, 1983 at 6:00 p.m.

VIII. Remarks From Public

- A. Christopher Gomes a tenant at 2697 Mission Street addressed the Board regarding the denial of his appeal of a Hearing Officer's Decision. It was suggested that tenant ask the Board for a reconsideration.
- B. Ted McCalla of Old Saint Mary's Housing Group addressed the Board regarding the 48 -6th Street Decision and the amendment thereto.

IX. Adjournment

President Flynn adjourned the meeting at 6:17 p.m.

3/15/83:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, March 22, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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22/83
I. Call to Order

Vice President Saunders called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present: Alviar, Duggan, Saunders, Payne

Commissioners not Present: None

Staff Present: Hernandez, Corman

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Commissioner Chinchilla appeared on the record at 5:40 p.m.

Commissioner Flynn appeared on the record at 5:44 p.m.

Commissioner Curran appeared on the record at 5:50 p.m.

Commissioner Baird appeared on the record at 7:05 p.m.

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III. Approval of Minutes

MSC: To approve the minutes of March 15, 1983.
(Alviar/Duggan: 4-0.)

IV. Communications

- A. The Board received a copy of a letter from Allan H. Codgene regarding section 37.1(o) of the Ordinance. The Board urged the Director to inform the petitioner to either get a legal opinion from the City Attorney or follow the advice from the Director.
- B. The Board received the statistics for both January and February on counseling activities.
- C. The Board received a copy of the Mayor's statement on SB 259.
- D. The Board received a copy of the proposed Municipal Ordinance on security deposits introduced by Supervisor Walker.
- E. The Board reviewed a draft of the letter to the Mayor on the proposed changes for Capital Improvement Certification.

V. Director's Report

- A. The Director asked Mr. William Corman to give a status report on the pending litigation on 2055 California Street eviction matter. After discussion the Board approved continuing the matter for two more weeks.

VI. Consideration of Allegations of Wrongful Eviction

A. Hearing on 2032 Mission Street
(Original consideration on March 8, 1983)

The landlord was not present for this hearing, but was represented by an attorney. Four tenants were present. The tenants gave testimony and introduced evidence regarding retaliation, harassment, and eviction attempts which they allege have been made by their landlord, Mr. Simon Kim. The hearing was closed after the landlord's attorney gave his testimony.

MSC: That the evidence presented in this matter gives the appearance of a wrongful eviction attempt. (Saunders/Chinchilla: 5-0.)

The Board went into Executive Session to discuss litigation on this matter. At the Executive Session, it was decided to seek injunction to prevent the landlord from proceeding on these evictions.

MSC: To seek injunctive relief to preclude the landlord from continuing his wrongful eviction attempts and to cease the harassment by the landlord or his agents and employees against the tenants. (Duggan/Chinchilla: 5-0.)

The Board went back on the record at 7:03 p.m.

VII. Old Business

- A. Commissioner Flynn gave a status report on his progress toward drafting a new Section 6.10 for possible amendment to the Rules and Regulations.

VIII. Remarks from the Public

- A. Michael Harney of the Affordable Housing Alliance spoke on the proposal to decrease property tax which is now being considered by the state legislature. Mr. Harney would like the Rent Board to consider a concomitant decrease in rents if this measure passes.

IX. Adjournment

President Flynn adjourned the meeting at 7:15 p.m.

3/23/83:ap

* Please note next week's meeting was canceled.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 5, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

Vice President Saunders called the meeting to order at 5:38 p.m.

II. Roll Call

Commissioners Present: Alviar, Chan, Chinchilla, Curran,
Duggan, Moy, Payne, Saunders

Commissioners not Present: Baird

Staff Present: Hernandez, Vitrano

Commissioner Flynn appeared on the record at 5:39 p.m.

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III. Approval of Minutes

MSC: To approve the minutes of March 22, 1983.
(Chinchilla/Alviar: 5-0)

IV. Consideration of Appeals

A. 205 -2nd Avenue #2,5,7,8,9, (tenant) & (landlord)

Both the landlord and tenant appealed the Hearing Officer's decision. The landlords based their appeal on "extenuating circumstances", claiming that the C.P.I. guideline does not take into consideration special situations. The tenant based his appeal on the overall amount of the increase granted by the Hearing Officer.

MSC: To deny both the tenant and landlords
appeal. (Saunders/Alviar: 5-0)

B. 3481 -16th Street

Tenant appealed the decision of the Hearing Officer based on alleged abuse of discretion.

MSC: To deny this appeal. (Chinchilla/Duggan: 5-0)

C. 737 Pine Street #6, 21, 27 (tenant)

Tenants appealed the Hearing Officer's decision alleging that the Hearing Officer was "biased in his findings".

MSC: To deny this appeal. (Saunders/Chinchilla: 5-0)

100-101010-100

APR 1 1983

FOR EXAMINATION

D. 2697 Mission Street #10 (reconsideration)

Tenant requested a reconsideration of his appeal claiming that the Hearing Officer failed to consider a report from B.B.I. in his decision.

MSC: To deny this appeal. (Alviar/Chinchilla: 5-0)

V. Communications

- A. The Board received a letter from Dean Macris Director of the Department of City Planning. The letter requested a written opinion concerning the Rent Board's policy on evictions. President Flynn and the Executive Director will prepare a response.
- B. The Board received a letter from Laura Swartz, President of the Hearing Officers Association outlining specific personnel policies. The Board will consider this under Old Business on April 12, 1983.
- C. A copy of a newspaper article concerning the Berkeley Rent Board was handed to the Board.
- D. Ted McCalla from Old Saint Marys submitted a proposed table of contents for the rent ordinance.

VI. Director's Report

- A. The Executive Director gave an update on the Bates Bill which would provide a statewide eviction just cause provision similar to the one in the San Francisco Rent Ordinance.
- B. Other state legislation which would affect rent laws were also reviewed.

VII. Old Business

- A. Decisions on 2032 Mission Street and 2150 Balboa Street were submitted for review and signature.
- B. Discussion of a proposed draft of Section 6.10 of the Rules and Regulations ensued. Discussion of possible changes in the capital improvement section also ensued. Further review will continue at the next meeting on April 12, 1983.

VIII. New Business

New Commissioners Stan Moy and Doug Chan were welcomed to the Rent Board.

IX. Calendar Items

Nothing was put on the calendar.

X. Remarks from the Public

David Sibbernsen expressed several concerns regarding the capital improvements section of the Rules and Regulations.

David Blantz attempted to clarify his reasons for his appeal.

XI. Adjournment

President Flynn adjourned the meeting at 7:05 p.m.

4/7/83:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, April 12, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

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I. Call to Order

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President Flynn called the meeting to order at 5:39

APR 25 1983

II. Roll Call

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Commissioners Present: Chan, Flynn, Payne, Baird, Chinchilla, Duggan, Moy.

Commissioners not Present: Alviar, Saunders

Staff Present: Hernandez, Wolf

Commissioner Curran appeared on the record at 5:44 and went off the record at 7:26.

III. Approval of the Minutes of April 5, 1983

MSC: To approve the minutes as written. (Chinchilla/Baird: 5-0.)

IV. Consideration of Appeals

No appeals were considered.

V. Communications

- A. The Board received a letter from Theodore Francis commending the staff of the Rent Board for a good job.
- B. The Board received a statistical recap of all rent petitions, appeals, summary petitions and eviction reports from the inception of the Rent Board.
- C. The Board received a copy of SB 113 introduced by Senator Rosenthal regarding security deposits.
- D. The Board received a copy from Dr. Unger's attorney complaining that a decision was two weeks late. The Director informed the Board that the decision was mailed April 7, 1983, two days before the complaining letter was mailed out by the attorney, also with further information that the unit was exempt from the Rent Ordinance.

VI. Director's Report

- A. The Director reminded the Commissioners that their conflict of interest forms were due in his office by April 30, 1983.
- B. The Director reviewed the developments on the litigation involving 2032 Mission Street.

- C. The Director reviewed with the Commissioners the statistical implications of the number of reports filed and their implications for the daily workload of the office.

VII. Old Business

- A. The Commissioners discussed the different proposals regarding changes in capital improvement certification. A summary of points tentatively agreed to:

- (1) Reclassify all the present five year amortization categories into a seven year category. However, when an appliance is replaced in a unit because it needs to be replace due to faulty working condition, it will no longer be classified as a capital improvement but simply a part of operation and maintenance of the building.

- (2) Interest shall now only be charged the legal state maximum whether it be real or imputed.

- B. The Commissioners discussed the different proposed changes in determining the operation and maintenance charges. A summary of points tentatively agreed to:

- (1) If the landlord has an increase in operating and maintenance larger than seven percent (7%), the Hearing Officer may grant an increase based on operating and maintenance to the landlord. However, such an increase shall not be more than fourteen percent (14%), (twice the annual increase allowed), to any one tenant based solely on operating and maintenance.

- (2) Property taxes and increase in debt service may be considered as part of an operating and maintenance increase immediately upon taking effect on a monthly allocation.

The staff was ordered to prepare a draft of the proposed language to be reviewed next Tuesday (April 19, 1983) for a projected public hearing on May 3, 1983.

- C. The Board reviewed and discussed the proposed Hearing Officer Performance Standards and Grievance Procedures; concerns were expressed that the Board would be unnecessarily involved in conflicts regarding staff and hearing officers or hearing officers and Board. Commissioner Duggan was asked to prepare possible amendments to the outline in light of the Board's concerns.

VIII. Calendar Items

- A. The Director gave the Commissioners the appeals to be considered at the next meeting.
- B. The Board will review the staff's draft on capital improvements and operating and maintenance next Tuesday.

- C. The Board will review Commissioner Duggan's proposal for Hearing Officer Performance Standards and Grievance Procedures next week.
- D. A possible public hearing may be scheduled for May 3, 1983.

IX. Adjournment

President Flynn adjourned the meeting at 8:20 p.m.

4/14/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, April 19, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Baird, Flynn, Saunders
Alternates: Duggan, Payne
Commissioners not Present: Alviar
Staff Present: Hernandez, Lim, Astle

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APR 25 1983

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Commissioner Chinchilla appeared on the record at 5:32 p.m.
Commissioner Moy appeared on the record at 5:35 p.m.
Commissioner Chan appeared on the record at 5:40 p.m.
Commissioner Curran appeared on the record at 5:45 p.m.

III. Approval of the Minutes of April 12, 1983

MSC: To approve the minutes as written. (Saunders/
Baird: 4-0.)

IV. Consideration of Appeals

A. 145 Laurel St.

Landlord appealed Hearing Officer's decision which held that \$925 was
comparable rent for the period of August 1, 1981 to February 1, 1983.

MSC: To deny this appeal. (Chinchilla/Saunders: 4-0.)

B. 275 Grattan

Landlord appealed Hearing Officer's decision which found a decrease in
housing services based upon the closure of a garbage chute and its
substitution with a garbage dumpster in the garage.

MSC: To accept this appeal on the record. (Saunders/
Chinchilla: 4-1.)

C. 423 Chestnut St.

Tenant appealed Hearing Officer's decision which granted an increase of
less than 10% based upon capital improvements.

Commissioner Saunders' motion to deny appeal did not receive a second.

MSF: To remand to a new Hearing Officer (Baird/
Chinchilla: 2-3; Curran, Saunders, Flynn dissenting.)

MSC: To deny appeal and instruct Hearing Officer to amend her decision to reflect correct statement of law. (Curran/Saunders: 3-2, Baird and Chinchilla dissenting.)

D. 525 -28th Ave.

Landlord appealed the Hearing Officer's decision which denied an increase based upon comparable rents.

MSC: To deny this appeal. (Saunders/Chinchilla: 5-0.)

V. Communications

A. The Commissioners received a copy of a letter from Mr. Daniel Berko to the Board of Supervisors and the Mayor regarding the Margaret Schuller case. The Executive Director will draft a response to Mr. Berko.

VI. Director's Report

A. The Director reported on the status of the Rosenberg and Travis Campbell cases, which are before the Court of Appeals for pretrial settlements conferences. The Director also indicated that the Fox Writ had been denied, and that the only writ outstanding is the Clifford Sweet/Bridgeway case.

VII. Old Business

A. The Commissioners discussed additions, changes and corrections to the draft of 6.10 of the Rules and Regulations submitted by the staff.

(1) Commissioner Payne suggested that the following language appear at the onset of Rule and Regulation 6.10 "Except in extraordinary circumstances, the following guidelines shall apply to increases based upon Operating and Maintenance expenses." Commissioner Payne also suggested that Schedule I for seven-year Amortization, line 13, include the language "which is a replacement item due to faulty working conditions for which the tenant has already had the benefit."

(2) Commissioner Flynn suggested that appliances be capitalized when:

- a) the work is part of remodeling a kitchen;
- b) based upon an agreement between tenant and landlord;
- c) this will be a new service or appliance which the tenant never had.

(3) Commissioner Curran indicated that carpeting and linoleum was omitted from the seven year amortization schedule as was exterior and interior common area painting. It was his understanding that interior apartment painting is Operating and Maintenance.

understanding that interior apartment painting is Operating and Maintenance.

- (4) It was suggested that page one of 6.10(a), line 12 include the following language: "a per unit dollar amount greater than the per unit dollar amount...."
- (5) Commissioner Flynn suggested that the language for 6.10(c) include "Generally, an increase in debt service as a result of refinancing to obtain funds in excess of existing financing....". Additionally, he commented on the omission of language on prospective debt service and stated that it should be in the draft.
- (6) Section 6.12(f), line 4 shall include the language "at the prevailing state legal rate, which is presently 10%..."

The Commissioners indicated they would work with the Director over the next few days to develop a final draft to be issued for the public hearing on May 3, 1983 at 6:30 p.m.

- B. Commissioner Duggan updated the Board on the Hearing Officer's standards proposal. She will be speaking to the Director, Hearing Officers and City Attorney, Pennypacker.

VIII. New Business

- A. The Director informed the Board that the Mayor received the Board's letter regarding the Real Estate Department's duties on certification of Capital Improvements and she indicated that the City Attorney draft the appropriate language regarding a change.
- B. Ms. Ruth Astle informed the Board of her new job with the traffic citation clinic.
- C. The Director reported that Laura Swartz has a new job with Quentin Kopp as his administrative aide.

IX. Calendar Items

- A. A hearing has been scheduled for 275 Grattan on May 3, 1983 at 6:00 p.m.
- B. A public hearing on changes to Rules and Regulations 6.10 and 6.12 will be held on May 3, 1983 at 6:30 p.m.
- C. There will not be a Board meeting on April 26, 1983.

X. Adjournment

President Flynn adjourned the meeting at 6:55 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 3, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

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MAY 9 1983

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I. Call to Order

President Flynn called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Baird, Chan, Chinchilla, Curran, Duggan, Flynn, Moy, Payne, Saunders
Commissioners not Present: Alviar
Staff Present: Francis, Hernandez, Wolf

Commissioner Curran went off the record at 8:20 p.m.

III. Approval of Minutes

MSC: To approve the minutes of April 19, 1983 as corrected: Page 2, Old Business, item A(1): language shall be added regarding prospective debt service and taxes. (Saunders/Moy: 5-0)

IV. Consideration of Appeals

A. 665 Eddy St.

Landlord appealed Hearing Officer's decision denying an increase based on increased operating expenses; denying the 7% increase until certain repairs are made; and granting a retroactive rent reduction to one tenant based on a decrease in housing services.

MSC: To hear this appeal at the Board level on the issue of decreased services alone.
(Baird/Saunders: 4-1, Curran dissenting.)

B. 314 Kearny #414

Tenant appealed Hearing Officer's decision denying a rent increase due to a failure to repair and granting a retroactive rent reduction due to a decrease in housing services. Tenant alleged that the dates in the decision were in error.

MSC: To remand to staff to make a technical correction.
(Baird/Curran: 5-0)

C. 37 States St.

Tenant appealed Hearing Officer's decision denying a retroactive rent reduction due to decreased housing services but granting a prospective rent reduction until repairs are made.

MSC: To deny this appeal. (Chinchilla/Saunders: 3-2; Baird and Curran dissenting.)

V. Appeal Hearing

The hearing commenced at 6:10 p.m. Present were the tenant, Peter Warfield, and the landlord, Leland Jarnagin, representing themselves. Landlord was appealing Hearing Officer's decision granting a rent reduction due to an alleged decrease in housing services. The service in question was the removal of a garbage chute and substitution of a dumpster and the resulting inconvenience.

MSC: To reverse the Hearing Officer's decision in all respects, including restitution of the tenant's filing fee. (Curran/Saunders: 5-0)

VI. Public Hearing

A public hearing on the issues of operating and maintenance expenses and capital improvements commenced at 6:35 p.m., and concluded at 8:10 p.m.

VII. Communications

- A. The Board received a memorandum from Hearing Officer Sue Hestor regarding the proposed changes to Section 6.10 of the Rules and Regulations.
- B. The Board received a copy of Hearing Officer Ruth Astle's letter of resignation.
- C. The Board received a letter from Stuart Hollander on behalf of Bush Realty regarding the appeal consideration on 314 Kearny Street.
- D. The Board received copies of two letters regarding 665 Eddy Street.
- E. Commissioner Curran presented the Board with a copy of a letter he wrote to Mr. William Rutter regarding comments expressed at a panel on landlord-tenant litigation in San Francisco on April 30, 1983.

VIII. Director's Report

- A. The Director reported that he met with the Grand Jury that reviews all City boards and commissions for a short session on Monday, May 2nd.
- B. The Director presented the Board with the March and April statistics.
- C. The Director reported on the resignation of Bill Corman, Staff Eviction Attorney.
- D. Susan Francis, Senior Hearing Officer, reported on a call from the Real Estate Department regarding the proposed certification of new windows in the amount of \$900,000.00

IX. Old Business

- A. Commissioner Duggan reported that she has discussed the proposed Grievance Procedure for Hearing Officers with the Executive Director and Senior Hearing Officer, and is waiting to meet with representatives from the Hearing Officer's Association.

X. New Business

- A. Commissioner Chan brought up the Alatorre legislation (AB965) proposing restrictions on local rent control initiatives and requested that the Board take a position against any usurping of a municipality's "police power".

XI. Calendar Items

- A. A hearing will be scheduled for 665 Eddy Street on May 24, 1983 at 6:00 p.m.
- B. The Board will discuss Sections 6.10 and 6.12 on May 17, 1983.

XII. Remarks from the Public

- A. Don Hesse of the Human Rights Commission and Michael Harney of the Affordable Housing Alliance urged the Board to oppose AB 965.

XIII. Adjournment

President Flynn adjourned the meeting at 8:45 p.m.

5/4/83:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, May 10, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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MAY 13 1983

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I. Call to Order

Commissioner Baird called the meeting to order at 5:42 p.m.

II. Roll Call

Commissioners Present: Baird, Chan, Chinchilla, Duggan, Moy, Payne
Commissioners not Present: Alviar, Curran, Flynn, Saunders
Staff Present: Hernandez, Vitrano

Commissioner Chinchilla appeared on the record at 5:44 p.m.
Commissioner Duggan appeared on the record at 5:46 p.m.

III. Approval of Minutes

MSC: To approve as written the minutes of
May 3, 1983. (Payne/Chan: 4-0)

IV. Consideration of Appeals

A. 990 Geary St.

Landlord appealed Hearing Officer's decision claiming written
notice from the tenant was not received.

MSC: To deny this appeal. (Payne/Chinchilla: 4-0)

B. 3467 Mission St.

Tenant appealed Hearing Officer's decision alleging denial of due
process. Tenant claimed the Hearing Officer, "refused to close
the windows and to speak loud enough."

MSC: To deny this appeal. (Payne/Chinchilla: 3-1,
Moy dissenting)

C. 815 -25th Ave., #101, 103, 202, & 303

Landlord appealed Hearing Officer's decision alleging an abuse
of discretion.

MSC: To accept this appeal de novo on the Board
level. (Payne/Baird: 4-0)

D. 2300-2304 Divisadero/2870-2896 Washington Street

Landlord appealed Hearing Officer's decision alleging that there was no substantial evidence to support the findings of the Hearing Officer.

MSC: To deny this appeal. (Chinchilla/Moy: 2-2,
Baird, Payne dissenting.)

This appeal to be reconsidered at the next Board meeting, May 17, 1983.

E. 48 -6th St., #29

Tenant appealed Hearing Officer's decision based on an inadequate reduction in rent.

MS: To deny this appeal. (Payne/Chinchilla,
Chinchilla subsequently
withdraw his appeal)

MSC: To accept the appeal on the Board level de novo.
(Chinchilla/Baird: 3-1, Payne dissenting)

V. Communications

- A. Written recap of the public testimony from the public hearing on May 3, 1983 was given to the Board.

VI. Director's Report

- A. An update on vacant staff positions was given.

VII. Old Business

- A. Commissioner Duggan reported that Hearing Officer Herb Schwartz contacted her about the proposed Rules of Professional Conduct.
B. The final draft of the decision involving 235 Grattan St., was given to the Board for final approval and signature.

VIII. New Business

No new business was reported.

IX. Calendar Items

- A. Final discussion on Section 6.10 will take place next week, May 17, 1983.
B. The Board will hear the appeal involving 48 -6th St., on Tuesday May 31, 1983 at 6:00 p.m.
C. The Board will hear the appeal involving 815 -25th Ave., on Tuesday May 31, 1983 at 6:30 p.m.

X. Remarks from the Public

There were no remarks from the public

XI. Adjournment

Commissioner Baird adjourned the meeting at 6:14 p.m.

5/11/83:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, May 17, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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MAY 23 1983

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I. Call to Order

President Flynn called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Baird, Chan, Curran, Chinchilla, Duggan,
Flynn, Moy, Payne, Saunders
Commissioner Absent: Alviar
Staff Present: Hernandez, Francis, Kubota

Commissioner Curran went off the record at 7:00 p.m.

III. Approval of Minutes

MSC: To amend the minutes of May 10, 1983 as
follows: Page two, Item E, MSC to read
Chinchilla subsequently withdrew his second.
(Flynn/Chinchilla: 5-0)

IV. Consideration of Appeals

1. 3415 -22nd Street

Landlord appealed Hearing Officer's decision granting a rent
reduction for failure to provide heat. Landlord cites no grounds
for his appeal.

MSC: To deny this appeal. (Saunders/Chinchilla: 5-0)

2. 267 Dorland

Landlord appealed Hearing Officer's decision granting a rent
reduction for failure to provide heat.

MSC: To deny this appeal. (Baird/Saunders: 4-1
Flynn dissenting)

3. 157 Commonwealth Avenue

Landlord appealed Hearing Officer's decision granting a rent
reduction based on a decrease in services resulting from a paint job.

MSC: To hold a hearing at the Board level based
on the record and limited to the issue of
a rent reduction based on a decrease in
services. (Baird/Flynn: 5-0)

4. 720-24 Broderick/1693 McAllister

Landlord appealed Hearing Officer's decision denying a rent increase in excess of the statutory guidelines based on capital improvements.

MSC: To remand to the same Hearing Officer with instructions to re-examine the decklights as a capital improvement and allow the landlord to petition without prejudice for capital improvements made in 1982.
(Baird/Saunders: 4-0; Commissioner Curran disqualified himself from the vote)

5. 795 Geary Street #306

Landlord appealed Hearing Officer's decision denying a rent increase based on a failure to perform routine maintenance and repairs as required by state and local laws.

MSC: To deny this appeal.
(Baird/Chinchilla: 4-0; Commissioner Flynn disqualified himself from the vote)

6. 2300-04 Divisadero/2870-96 Washington

Landlord appealed Hearing Officer's decision denying a rent increase based on increased operating and maintenance expenses as landlord failed to submit adequate evidence.

MSC: To schedule this for a hearing De Novo at the Board level.
(Saunders/Baird: 3-2; Curran, Chinchilla dissenting)

V. Communications/Director's Report

See Item VII Old Business

VI. Consideration of Allegations of Wrongful Evictions

a) Put over for May 24, 1983.

VII. Old Business

A. Discussion of 6.10 and 6.12

1. Staff submitted a draft of Section 6.10(a) in lay terms.
2. Nancy Lenvin, attorney and housing activist offered written considerations on the affected sections.
3. The Board directed staff to define comparison period as the immediate preceding calendar year.
4. Commissioner Baird suggested specific language prohibiting prospective debt service and property taxes as part of operating and maintenance with the "extraordinary circumstances" phrase used as a safety valve.

MSC: To include such language in the new draft.
(Baird/Saunders: 3-1; Chinchilla dissenting)

5. The Commissioners discussed at length the duty of the tenant to give landlord notice of his or her objections to the capital improvement sought to be made by the landlord.

Commissioner Chan suggested that language be inserted as follows "failure to object to the capital improvements before commencement of the improvements shall not affect tenant's right to object at the time of the hearing."

This was accepted by all as a Solomonic solution to the issue.

6. The Board limited the amount of interest taken on loans for capital improvements to ten percent (10%).
7. The Commissioners determined that any excess amounts of a loan not spent on needed repairs and maintenance of the building are also computed at 10%.
8. The Commissioners dismissed at length the issue of deferred maintenance by landlords and the resulting financial consequences on the tenant when the landlord does perform routine maintenance and repairs. Several language minority areas were discussed with no final resolution of the issue.

VIII. Adjournment

President Flynn adjourned the meeting at 9:00 p.m.

5/18/83



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, May 24, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:

Alviar, Baird, Chan, Curran, Chinchilla,
Duggan, Flynn, Moy, Payne, Saunders

Staff Present:

Astle, Hernandez, Kubota, Wolf

III. Approval of Minutes

MSC:

To amend the minutes of May 17, 1983 as follows: Page one, III Approval of Minutes, shall be corrected to read "Item E, MS" instead of "MSC", and Curran/Baird: 5-0, instead of Flynn/Chinchilla; Page two, appeal number 6: Add MSC: To deny this appeal. (Curran/Chinchilla: 2-3); Old Business, Item A2, the phrase "and housing activist" shall be deleted, as shall the last sentence in Item A5; Item 7 shall be corrected to read as follows: "The Commissioners determined that any excess amounts of a loan taken for refinancing that are spent on the building will be computed at 10% interest; Item 8 shall be corrected to read "The Commissioners discussed" instead of "dismissed." (Saunders/Baird: 5-0)

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MAY 31 1983

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IV. Considerations of Appeals

1. 1330 Bush Street

Landlord appealed Hearing Officer's decision granting a rent reduction due to a decrease in housing services.

MSC:

To accept this appeal for a de novo hearing before the Board. (Baird/Alviar: 5-0)

2. 1940 Washington Street

Landlord appealed Hearing Officer's decision on the basis of an incorrect P.G. & E. pass-through computation and disallowance of certain capital improvements. There is another case pending regarding other tenants at this address.

MSC: To remand this case to Hearing Officer Alicia Wicks to conform both decisions regarding this property; re-consider the denial of certain capital improvements deemed to be repairs; and re-calculate the P.G. & E. using a 12 month base year. (Saunders/Alviar: 5-0)

3. 100 -5th Avenue

Landlord appealed Hearing Officer's decision denying a rent increase over 7% due to a lack of documentation. Landlord requested a one month extension in order to compile the necessary documents.

MSC: To grant landlord a one month extension until June 24th in order to provide Hearing Officer with documentation to justify the requested rent increase. (Alviar/Saunders: 5-0)

4. 2144 Green Street

Tenants appealed Hearing Officer's decision on remand denying a claim of decreased services and granting an increase due to capital improvements. Tenants maintained that they did not have adequate opportunities to review landlord's documentation.

MSC: To deny this appeal: 4-1; Baird dissenting)

V. Consideration of Allegations of Wrongful Evictions

MSC: To adopt staffs' recommendations with the following changes: no warning letters shall be sent to the landlords at 342 -24th Avenue and 460 Day Street as these individuals are not known to be frequent violators of the eviction sections of the Ordinance; and to take no further action regarding 2790 Pine Street unless an Unlawful Detainer is filed by the landlord. (Baird/Alviar: 5-0)

VI. Remarks from the Public

A discussion ensued regarding moving this section of the Agenda up on a permanent basis so that persons wishing to comment on their appeal do not have to wait until the end of the meeting to speak.

- A. Mr. Willer of 1940 Washington Street addressed the Board regarding his appeal.
- B. Joe Lacey of Old St. Mary's addressed the Board regarding the 2144 Green Street appeal.
- C. Mr. Cavey, a tenant at 2144 Green Street, addressed the Board regarding his appeal.

- D. Ted McCalla of Old St. Mary's agreed that Remarks from the Public should be moved up on the Agenda, but stated that time should also be provided for this purpose at the end of the meeting.

VII. Communications

- A. The Board received a copy of a letter from the attorney representing the landlord at 815 -25th Avenue, requesting a postponement of the appeal hearing scheduled for May 31, 1983 until after July 1st as the owner will be out of the country.

MSC:

To grant the request for postponement and schedule the hearing for as soon after July 1st as is convenient for the administration of the Board's affairs.
(Baird/Alviar: 5-0)

- B. The Board received a copy of the Worthington Writ and were informed that the City Attorneys' Office is filing opposition to the award of attorney's fees, and is awaiting the final judgement before deciding whether to appeal.

VIII. Director's Report

- A. The Board was informed that Ms. Alicia Wicks has been hired for the position of Appeals Coordinator, and that recruiting for the position of Eviction Coordinator is continuing.
- B. The Executive Director reported on the status of the litigation concerning 2032 Mission Street.

IX. Old Business

Drafts of amendments to Sections 6.10 and 6.12 of the Rules and Regulations were submitted by staff, and discussed by the Board. With certain additional changes, the amended sections were unanimously adopted by the Board. The amendments will take effect July 1, 1983. Hearings held on petitions filed prior to that date will be governed by the old law; petitions filed on or after July 1st will be heard according to the new sections.

X. New Business

- A. The Executive Director requested guidance from the Board regarding charges of bias against Hearing Officers.
- B. The Board requested that the issue of Community Outreach be placed on next week's agenda; the Executive Director will report on current outreach efforts being conducted by staff.

XI. Appeal Hearing

A. 665 Eddy Street

The hearing was scheduled to take place at 6:00 p.m., however none of the parties were present so the hearing was postponed until the end of the agenda. At that time, none of the parties had yet appeared.

Landlord had appealed a denial of an increase in excess of 7% due to increased operating expenses; granting of a retroactive rent reduction; and denial of any rent increase until certain repairs are made.

MSC:

To uphold the decision of the Hearing Officer and deny this appeal.
(Saunders/Chinchilla: 5-0)

XII. Calendar Items

- A. There will be a de novo hearing before the Board on 1330 Bush Street on June 14, 1983 at 6:00 p.m.

XIII. Adjournment

President Flynn adjourned the meeting at 8:02 p.m.

5/25/83:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, May 31, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

DOCUMENTS DEPT.

JUN 8 1983

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I. Call to Order

President Flynn called the meeting to order at 5:31 p.m.

II. Roll Call

Commissioners Present: Baird, Flynn, Saunders, Chan, Moy, Payne
Commissioners not Present: Alviar, Chinchilla, Duggan
Staff Present: Hernandez, Kirke, Wicks

Commissioner Curran appeared on the record at 5:35.

III. Approval of Minutes

MSC: To amend the minutes of May 24, 1983 as follows:
Page two, appeal number 4: add Chinchilla/
Saunders; Old Business: add Saunders/Chinchilla.
(Saunders/Baird: 5-0.)

IV. Consideration of Appeals

A. 835 Baker St.

Tenant appealed Hearing Officer's decision denying a reduction in rent for a decrease in services. The Hearing Officer rejected the grounds since the problem existed when the tenant moved in. The Hearing Officer suggested that Failure to Repair was the appropriate argument, which can be raised at the time of the next rent increase.

MSC: To accept the case de novo in order to reach a consensus on the interpretation and application of Decrease in Services versus Failure to Maintain and Repair. (Curran/Baird: 3-2; Flynn and Saunders dissenting.)

B. 1827- 9th Ave. #2, 3, and 4

Landlord appealed a Hearing Officer's decision concluding that the resident owner had not proved he had been a continuous resident for six months and that he therefore was not entitled to assess two rent increases in a 12 month period.

It was the consensus of the Commissioners to defer their decision for one week until technical corrections in the relevant dates had been made by the Hearing Officer.

SF
R52
#2
12/1/83

D. 2790 Pine St. #3 (t) and #4 (l)

Apt. #3 - Tenant appealed the Hearing Officer's decision approving some Operating and Maintenance and Capital Improvement expenses the tenant says have been charged to her.

It was the consensus of the Commissioners to continue the case for one week in order to obtain the Hearing Officer's response to the tenant's appeal comments.

Apt. #4 - The landlord appealed the Hearing Officer's decision denying a rent increase for the tenant's garage space. The landlord maintained that the garage had been rented separately and was not governed by the Ordinance.

MSC: To deny the appeal since the landlord did not carry his burden of proving the garage was rented separately. (Chan/Curran: 5-0).

E. 3825 through 3835- 24th St.

Landlord appealed the Hearing Officer's decision denying Operating and Maintenance expenses. The Hearing Officer ruled the landlord had not carried his burden of proof because of incomplete, confusing, and innacurate documentation.

MSC: To deny the appeal. If the landlord does not provide sufficient evidence, the Hearing Officer may have the right to deny an increase. (Saunders/Flynn: 5-0).

V. Appeal Hearing

1. 48- 6th St. (original consideration: May 10, 1983)

The hearing was scheduled for 6:00 p.m. and commenced at 6:15 p.m. Appearing were tenant Faavae Fau, represented by Randy Shaw. Also present were K. Patel, ex-owner, and N. Patel, current manager, who were represented by Matthew Martenyl. Several tenant-witnesses appeared as well. At issue was a 10 percent reduction in rent granted by the Hearing Officer for lack of heat. The tenant feels 10 percent is insufficient compensation for the total lack of heat and does not take into consideration other repair and maintenance problems raised at the hearing.

MSC: That the Hearing Officer's decision be accepted in all respects except to increase the rent reduction to 33% - \$396.00 - to be deducted over the next three months (\$132.00 per month).

It was also decided that this amount could be deducted from future rent due the new owner since he was aware of the situation. (Baird/Saunders: 3-2, Curran and Flynn dissenting.)

VI. Communications

- A. The Executive Director received a letter from Kathryn Pennypacker, Deputy City Attorney, asking to be advised as to when a Rent Board Staff member would again be working on the Kim case.
- B. The budget was received by the staff and presented to the Commissioners. The Mayor is expected to make the budget public June 1, 1983. The Executive Director will attend the Finance Committee meeting June 21, 1983 to testify about the budget.
- C. The Commissioners received a post card from former Commissioner Paulette Anderson.

VII. Director's Report

- A. The Executive Director informed the Commissioners that the upcoming case concerning 1100 Gough has generated a great deal of media and public interest. The landlord filed a petition and the tenants counter-petitioned. The case will be heard June 6, 1983 at 11:00 a.m. in the Board of Education hearing room.
- B. Alicia K. Wicks was introduced as the new Appeals Coordinator. She was welcomed on behalf of the Commissioners by President Flynn.
- C. The Civil Service Commission has instructed the Executive Director to widen the area of recruitment for the vacant position of Eviction Counselor. Applications will be accepted until June 20, 1983.

VIII. Old Business

A discussion on Community Outreach was deferred to a later time.

IX. Calendar Items

- A. There will be a de novo hearing before the Board on 835 Baker St. on June 14, 1983 at 6:00 p.m.

X. Remarks from the Public

- A. It was asked if the new drafts of 6.10 and 6.12 are ready. The Executive Director noted that the drafts have been prepared and are currently being distributed.

XI. Adjournment

President Flynn adjourned the meeting at 7:14 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, June 7, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

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President Flynn called the meeting to order at 5:31 p.m. JUN 15 1983

II. Roll Call

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Commissioners Present: Flynn; Baird; Saunders; Alviar
Alternates: Duggan; Moy; Payne
Commissioners not Present: Chinchilla
Staff Present: Hernandez; Kirke; Wicks

Commissioner Chan appeared on the record at 5:39; Commissioner Curran
appeared on the record at 5:40.

III. Approval of Minutes

MSC: To amend the minutes of May 31, 1983 as follows:
Page three, Communications: Item B, line 1,
shall read "The proposed budget was received..."
(Saunders/Baird: 4-0.)

IV. Consideration of Appeals

A. 1827- 9th Ave., #2, 3, and 4

Landlord appealed Hearing Officer's decision concluding that the
resident owner had not proved he had been a continuous resident for
six months and that he therefore was not entitled to assess two rent
increases in a 12 month period.

MSF: To deny the appeal. (Baird/Alviar: 2-3, Flynn,
Saunders, Chan dissenting.)

MSC: To accept the case de novo. There will be an
attempt to schedule a hearing when owner Candar
Yan is back in the state. (Saunders/Flynn: 4-1,
Baird dissenting.)

B. 2790 Pine St. #3

Apt. 3 - Tenant appealed the Hearing Officer's decision approving
some Operating and Maintenance and Capital Improvement expenses the
tenant says have been charged to her already.

MSC: To deny the appeal. (Baird/Saunders: 5-0.)

V. Appeal Hearings

1. 157 Commonwealth - (original consideration: 5/17/83)

A hearing was scheduled for 6:00 p.m. and commenced at 6:15 p.m. Appearing were Landlord-Appellant Paul Fireman and Tenant-Respondents Alexander Polk and Kim Watkins. The hearing was limited to the issue of decrease in service. The landlord appealed the Hearing Officer's decision granting a rent reduction for an exterior paint job which the tenants maintained took too long to complete and was of an inferior quality.

MSC: That the Hearing Officer's decision be affirmed in all respects except to reverse the \$525.00 award for decrease in service and restore the sum to the landlord over the next three months (\$175.00 per month). (Baird/Alviar: 5-0.)

2. 2300-04 Divisadero/2870-76 Washington - (original cons. 5-17-83).

A hearing was scheduled for 6:30 p.m. and was convened at 6:45 p.m. Appearing were Landlord-Appellant Wilhelmina Fiederlein and Don M. Farris; they were represented by Thomas La Lanne, Esq. Also present were Tenant-Respondents Nancy Caton, Joyce Edelson, Barbara Johnson, Kenneth Johnson, Martha Le Roux and Samantha Thompson; they were represented by Robert DeVries, Esq.

Landlord had appealed Hearing Officer's decision denying a rent increase based on expenses as landlord failed to submit adequate evidence.

After considerable testimony on both sides, the parties agreed to the following stipulation: On 30 days written notice the involved tenants shall pay a 14 percent increase on their current rent (to be considered base rent) plus \$101 for operating and maintenance expenses; no writs will be filed on this matter; service for the increase to the tenants can be made to Mr. DeVries.

VI. Communications

- A. The Commissioners received copies of the Mayor's proposed 1983-84 budget and a related press release.
- B. A letter from Joan Kubota tendering her resignation from the Rent Board staff was offered. She will become an Affirmative Action Coordinator for the City.
- C. The Executive Director received a copy of a letter from Jeffrey Lee, Director of Public Works, to James H. Schmidt concerning lifetime leases upon condominium conversion.

- D. Diane Lavabee, Esq., sent a letter to the Rent Board expressing concerns about the proposed replacement housing to be offered the tenants of 1330 Sacramento Street upon demolition of the existing building for luxury condominiums.

VII. Remarks from the Public

Ted McCalla of Old St. Mary's Housing Committee expressed his objection to the failure of the Commissioners to review the allegedly-disputed bills for 2790 Pine St. #3.

VIII. New Business

1. Charlie Schultz of the Real Estate Department sent a request for clarification of the phrase "due to faulty working condition" from the new draft of Rule 6.12(b).

IX. Calendar Items

There will be no meeting of the Rent Board on June 21, 1983.

X. Adjournment

President Flynn adjourned the meeting at 9:18 p.m.

6/10/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, June 14, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

Vice President Saunders called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Baird, Chinchilla, Saunders,
Alternates: Moy, Chan, Payne
Commissioners not Present: Alviar, Curran
Staff Present: Hernandez, Hestor, Wicks

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Commissioner Flynn appeared on the record at 5:42; Commissioner Duggan appeared on the record at 5:43.

III. Approval of Minutes

MSC: To amend the minutes of June 7, 1983 as follows:
Page three, Remarks from the Public: line 2, shall read "the allegedly-duplicated bills..."
(Chinchilla/Saunders: 4-0.)

IV. Consideration of Appeals

A. 2611 California St. #1

Landlord appealed Hearing Officer's decision denying certain capital improvement costs determined to be repairs; and delaying imposition of approved capital improvement costs six months to compensate the tenant for a similar period of unexplained delay in making the requested improvements.

MSC: To deny the appeal. (Saunders/Chinchilla: 4-0.)

B. 35 Reed

Landlord appealed Hearing Officer's decision granting the tenant a \$50 per month reduction in rent for failure to repair a continuing leak problem. Landlord maintained that the proper remedy is a denial of the requested 7 percent (\$30) increase, not an award for decrease in services.

MSC: To remand to a new Hearing Officer (Chinchilla/Saunders: 4-0.)

C. 40- 28th St., #1 and #4

Landlord appealed Hearing Officer's decision determining that a 56 percent rent increase was unlawful because the alleged owner-occupancy of the owner's son did not qualify to remove the building from the jurisdiction of the Ordinance.

MSC: To hear the case de novo at the Board level.
(Saunders/Chinchilla: 4-0.)

V. Appeal Hearing

1. 835 Baker St. (original consideration May 31, 1983)

The hearing was scheduled for 6:00 p.m. Appearing were various representatives of the landlord. The tenant did not appear despite the deferring of the hearing to 6:35 p.m.

Tenant appealed Hearing Officer's decision denying a reduction in rent for a decrease in services. The Hearing Officer rejected the tenant's argument since the problems existed at the time of the initial tenancy. The Hearing Officer pointed out that the correct ground is failure to maintain and repair, to be raised at the time of a rent increase.

MSC: To deny the appeal and uphold the Hearing Officer's decision since the tenant did not appear to present her case. (Baird/Saunders: 4-0.)

2. 1330 Bush St. (original consideration May 24, 1983)

A hearing was begun at 6:10 p.m. before the Board to hear a landlord's appeal of a Hearing Officer's decision granting a 25 percent reduction in base rent since November 1981 for continuing ceiling leaks which were not remedied despite the landlord's efforts at repair.

Appearing were Robert E. Andresen, landlord's representative, and witness Frank Dowse. Also present were tenant Deanna Chin and her representative Gabrielle Ponek.

MSC: To give the tenant a total one-time reduction of \$800.00 to compensate her for property damage and a year's inconvenience and loss of service. (Chinchilla/Saunders: 4-0.)

VI. Communications

1. A letter was received from Robert DeVries, attorney for the tenants at 2300-2304 Divisadero/2870-2876 Washington, protesting that a utility pass-through had been included in the rent increase notice given his clients. He maintains the utility increase is contrary to the stipulation reached by the parties during the hearing before the Board June 7, 1983.

2. Jacqueline Foster, Program Chief for the City of Berkeley Rent Stabilization Board, sent notice of a statewide staff/commissioner training seminar on rent stabilization to be held July 16, 1983.

VII. Director's Report

1. The Executive Director passed out statistics of petitions received by the Rent Board since July 1979.
2. Executive Director Hernandez mentioned the problem of finding hearing space large enough to accommodate the parties involved in hearings on multi-unit buildings.

VIII. Old Business

1. The request of Charles Schultz from the Real Estate Department for a clarification of the phrase "due to faulty working conditions" (amended Rule Section 6.12(b)) was considered.

MSC: To delete the phrase "due to faulty working conditions" from Rule Section 6.12 (b), Schedule I. The sentence shall read: "If the appliance is a replacement for which the tenant has already had the benefit, the cost will not be amortized as a capital improvement but will be considered part of operating and maintenance expenses."
(Baird/Chinchilla: 4-0.)

2. Because of a clerical error, section "g" of Rule Section 6.12 was omitted from the draft approved by the Commissioners. It was reinstated and approved by the Board.
3. Director Hernandez discussed the Rent Board's efforts at public outreach, detailing staff appearances on radio and T.V., as well as other media coverage. Commissioner Payne asked for a monthly verbal report on outreach. Several Commissioners expressed their desire to speak to community groups.
4. The Executive Director explained the breakdown of costs listed in the proposed budget passed out last week.
5. The concerns and requirements of Affirmative Action in relation to replacing Rent Board staff members were mentioned by Mr. Hernandez.
6. The decision on Case D8-24(A), 48- 6th St. #29, was approved by the consensus of the Board and signed by President Flynn.

IX. Calendar Items

1. All parties were reminded that no meeting is scheduled for June 21, 1983.

2. A de novo hearing before the Board on 2149/2151 Grove St. has been scheduled for 6:30 p.m. June 28, 1983.

X. Adjournment

President Flynn adjourned the meeting at 7:38 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, June 28, 1983 at 5:30 p.m. at the State Building

350 McAllister St. #1195

I. Call to Order

President Russell Flynn called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Flynn; Chinchilla; Saunders;
Alternates: Chan; Moy; Payne
Commissioners not Present: Alviar; Duggan
Staff Present: Hernandez; Wicks

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Commissioner Baird appeared on the record at 5:36 p.m.; Commissioner
Curran appeared on the record at 5:38 p.m.

III. Approval of the Minutes

MSC: To amend the minutes of June 14, 1983 as follows:
Page two, Part VI to read: "Communications."
(Chinchilla/Saunders: 3-0.)

IV. Consideration of Appeals

A. 456- 29th St.

Landlord appealed Hearing Officer's decision awarding the tenant
\$104.00 for various decreases in service and disallowing future
imposition of the 7 percent annual increase until repairs are made.

MSC: To remand for technical corrections: Change the
shower head rebate to \$9.00 and omit the references
to the 7 percent increase since no rent increase
is at issue at the present time. (Chinchilla/
Saunders: 5-0.)

B 445 Ashbury St. #2, 3, 4 and 7

Landlord appealed Hearing Officer's decision allowing Capital
Improvement expenses but disallowing an annual 7 percent increase
because it had not been included in the landlord's petition.

MSC: To remand for technical corrections: Omit the
references to the 7 percent increase because an
annual 7 percent increase need not be adjudicated
by the Rent Board and the landlord had not yet
given increase notices to the tenants.
(Chinchilla/Saunders: 5-0.)

C. 44 McAllister St.

Tenant appealed Hearing Officer's decision denying a rent reduction for alleged decreases in service because the tenant had not met her burden of proof, in that: some conditions were present when she began her tenancy; the landlord offered to allow her to choose another unit in the building; and the landlord had agreed to repair minor problems in her apartment.

MSC: To deny the appeal. (Chinchilla/Curran: 5-0.)

V. Communications

- A. The Executive Director received a letter from Werner J. Schmidt, President of New Technologies Institute, informing him of a course on the San Francisco Rent Ordinance soon to be offered to the public by his organization. Mr. George Devine, developer of the course, was introduced to the Commissioners.
- B. The Commissioners were informed that the Planning, Housing and Development Committee will hold hearings on Thursday, June 30, 1983. Among the topics will be: the possible amendment of Ordinance Section 37.9 to include eviction of caretakers; possible extension of the 5 percent security deposit refunds to commercial properties; a determination of (file 109-83-4) whether the enforcement provisions of the Subdivision Code (as prescribed by City Planning Commission Resolution 9081) have been or are being adhered to by developers of the Goldmine Hill Apartments and a determination of which agency is responsible for enforcement of the provisions (file 126-83-1); and the amendment of parts of Chapter 41 of the Administrative Code concerning conversion and demolition of residential hotel units (file 151-83-1).
- C. Wallace Wortman, Director of Property at the Real Estate Department, wrote Executive Director Hernandez to advise him of the progress in the certification of 60-80 Ora Way.
- D. Todd Werby, Vice President of Grosvenor Properties Ltd., sent Director Hernandez a statement of a proposed utility pass-through, along with supporting documents, for review and comment. It was noted by the Executive Director and the Commissioners that the methods prescribed by Rules Section 4.11 were not followed in these calculations and that the pass-through as proposed evidenced several major deviations from relevant laws.
- E. Applications were received for the Rent Law workshop sponsored by the Berkeley Rent Board on July 16, 1983.

- F. Steven S. Rosenthal, attorney for the landlord in 2790 Pine St. #4, wrote requesting the Board's reconsideration of the garage issue in that case. The Board reiterated its position that garages are considered part of "housing services" as defined by Ordinance Section 37.2(f).
- G. Kay del Carmen Halley, Esq. sent a letter thanking the Rent Board staff and Mr. Hernandez for their efforts in helping with her client's eviction problem.
- H. Anne Cecelia Young sent a letter of praise for the work of Mr. Hernandez and the Rent Board.
- I. Attorney Thomas J. La Lane wrote to explain his basis for the recent rent increase given the tenants of 2870-76 Washington/2300-03 Divisadero Streets.

VI. Director's Report

- A. Executive Director Hernandez informed the Commissioners that Ms. Janet Henley had been chosen as the new Eviction Counselor.
- B. Mr. Hernandez reported on the interviewing currently being conducted to find a replacement for Joan Kubota.
- C. The Director reminded the Commissioners that as of July 1, 1983, the Rent Board will have jurisdiction over appeals concerning the base rent for RAP units in the upper Haight.
- D. It was noted that Mr. Hernandez appeared on "El Amanecer" on Channel 44 recently to discuss housing issues.
- E. Director Hernandez reported that approximately 25 percent of the calls currently received at the Rent Board concern the new law relating to security deposit interest.
- F. The Tenderloin Housing Clinic and the National Lawyer's Guild are both training interested parties in how to represent themselves before the Rent Board. Delene Wolf has provided an overview of office procedures and information pertinent to Rent Board hearings.
- ✓ G. At the Finance Committee meeting Supervisor Renne stressed her interest in having the language of the Rules and Regulations simplified for the layperson.
- H. The revised Capital Improvement Schedule C for use as of July 1, 1983 was submitted to the Board.

MSC: To accept the new Capital Improvement Schedule.
 (Baird/Chinchilla: 5-0.)

The possibility of a Summary Petition procedure for simple capital improvement petitions was discussed.

VII. Old Business

- A. The concerns of the Nob Hill Neighbors - as indicated in their letter of June 3, 1983 - are being handled by Susan Francis.

VIII. New Business

- A. Commissioner Curran stated that he and Steve Carp are trying to formulate a comprehensive statement on roommates for possible inclusion in the Rules and Regulations.

IX. Calendar Items

The Commissioners were informed of the following scheduling of appeal hearings:

July 12:	6:00 - 1827 - 9th Ave. #2, 3, and 4
	6:30 - 40- 28th St., #1 and 4
July 19:	6:30 - 2149-2151 Grove St.

X. Adjournment

President Flynn adjourned the meeting at 7:04 p.m.

6/30/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 5, 1983 at 5:30 p.m. at the State Building

350 McAllister St. #1195

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SAN FRANCISCO
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Commissioner Saunders called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present: Alviar; Baird; Chinchilla; Saunders;
Payne
Commissioners not Present: Duggan; Moy
Staff Present: Hernandez; Wicks; Henley

Commissioner Flynn appeared on the record at 5:38 p.m.; Commissioner
Curran appeared on the record at 5:40 p.m.; Commissioner Chan appeared
on the record at 5:43 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 28, 1983 as they
stand. (Baird/Alviar: 4-0.)

IV. Executive Session

The Commissioners went into Executive Session at 5:35 p.m. to discuss
the correct procedure for the reconsideration of 2149-2151 Grove St.,
to be held pursuant to the Amended Peremptory Writ of Mandate issued
June 13, 1983.

V. Consideration of Appeals

A. 700 Castro St.

Tenant appealed Hearing Officer's decision that landlord had not
failed to make necessary repairs and that the conditions complained
of by tenant were cosmetic and did not affect habitability.

MSC: To deny the appeal since there is no evidence
of significant repair or maintenance problems.
(Saunders/Curran: 5-0.)

B. 611 Guerrero St.

Landlord appealed Hearing Officer's decision disallowing use of the
comparison year chosen by the landlord for a utility pass-through.

MSC: To deny the appeal. (Chinchilla/Alviar: 5-0.)

C. 285 Turk St.

Landlord appealed Hearing Officer's decision holding that the building was under the jurisdiction of the Ordinance until substantial rehabilitation was certified; that the 30-day notices given before all permits were obtained were invalid; that the increase above 7 percent for improvements charged to tenants re-occupying their remodeled units was disallowed as it has not been certified by the Real Estate Department.

MSC: To hear the case de novo at the Board level on July 26, 1983. (Saunders/Chinchilla: 5-0.)

VI. Director's Report

- A. The Executive Director formally introduced Janet Henley, the new Eviction Counselor.
- B. Director Hernandez distributed and discussed the 1982 Fiscal Year Report.
- C. Mr. Hernandez notified the Commissioners that the staff will submit their individual sections of the Annual Report by August 23, 1983.

VII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

- | | |
|-------------------------|-------------------------|
| 1. 1131 Green St. | 7. 261- 21st Ave. |
| 2. 1476 Valencia St. #7 | 8. 495 Frederick St. #4 |
| 3. 3287- 22nd St. | 9. 3223 Mission St. |
| 4. 1345 Taylor St. #32 | 10. 325 Garces Dr. |
| 5. 160 Herman St. | 11. 1334 Stockton St. |
| 6. 760 Stockton St. #2 | 12. 1606 Church St. #3 |

MSC: To accept the Hearing Officer's recommendations as stated in each case with the exception of #12, 1606 Church St. #3, which will be considered at the Board level. (Baird/Alviar: 5-0.)

VIII. Adjournment

The meeting was adjourned at 6:55 p.m. by President Flynn.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 12, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

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President Flynn called the meeting to order at 5:32 p.m.

JUL 18 1983

II. Roll Call

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Commissioners Present: Alviar; Baird; Chinchilla; Flynn

Alternates: Chan; Moy; Payne

Staff Present:

Hernandez; Hestor; Wicks

Commissioner Curran appeared on the record at 5:35 p.m.; Commissioner
Duggan appeared on the record at 5:42 p.m.; Commissioner Saunders
appeared on the record at 7:02 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of July 5, 1983, as
written. (Chinchilla/Alviar: 5-0.)

IV. Communications

1. The Board approved by consensus a response to the June 15, 1983,
letter of Thomas LaLanne, Esq., regarding utility pass-through
charges for 2300-2304 Divisadero/2870-2876 Washington Street.

V. Director's Report

1. Executive Director Hernandez distributed draft copies of the
Tenant's Rent History form. The Commissioners will discuss the
form at the July 19, 1983, meeting.
2. Mr. Hernandez stated that August 5, 1983, has been chosen for a
combined Hearing Officer brown bag luncheon and training session
on the July 1, 1983, Rules changes. The session will begin at
12 noon at the Rent Board.
3. The Director mentioned that he had conferred with Kathryn
Pennypacker on Supervisor Ward's proposal that the Rent Board be
given jurisdiction over certified capital improvements currently
handled by the Real Estate Department. The matter will be dis-
cussed at the Planning, Housing, and Development Committee meeting,
Tuesday, July 19, 1983.
4. Hector Chinchilla supplemented the Director's comments about the
workshop presented by Rent Board staff members at Mission
Vocational School recently.

VI. Appeal Hearings

A. 1827- 9th Ave., #2, 3 and 4

A hearing was scheduled for 6:00 p.m. and commenced at 5:58 p.m. Appearing were Landlord/Appellant Gordon Yan and Tenant-Respondents Mary Loftus, Judith Walker, and Maria Hernandez. The landlord appealed the Hearing Officer's decision concluding that as the resident owner, he had not proved that he met the requirements of continuous owner-occupancy, and that he was therefore not entitled to assess two rent increases in a 12 month period.

MSC: That the Board has no jurisdiction over the building and that the Hearing Officer's decision shall be set aside. The rent increases are effective as of the noticed date. (Payne/Baird: 5-0.)

B. 40- 28th St. #1 and 4

A hearing was scheduled for 6:30 p.m. and was convened at 6:33 p.m. Appearing were Landlord-Appellants Charles Brian Semple, Patricia Semple, and Charles P. Semple, represented by Jon Henry Kouba, Esq. Also attending were Tenant-Respondents Matthew Miksak, Elaine Miksak, and Carmen Herrera, representing themselves.

The landlord appealed the Hearing Officer's decision determining that a 56 percent rent increase was unlawful because the alleged owner-occupancy of the owner's son did not qualify to exempt the building from the jurisdiction of the Ordinance.

MSC: That the Board does have jurisdiction over the building and that the March 1, 1983 rent increases are null and void since there was no owner-occupancy at that time. (Baird/Alviar: 5-0.)

MSC: That the Hearing Officer's decision and the amended decision be hereby vacated, and that the Board finds that said decision is null and void and of no force or effect. The Hearing Officer's decision shall be supplemented in its entirety by the opinion to be subsequently issued by the Board. (Baird/Payne: 5-0.)

VII. New Business

1. Briefly discussed was Supervisor Britt's proposed amendment for a 4 percent annual rent increase and a 10 percent maximum increase upon vacancy. A public hearing has been requested on the matter sometime in September.

VIII. Calendar Items

July 26, 1983:

Appeal consideration: 3025- 25th St.
Eviction Hearing: 1606 Church St. #3
Appeal Hearing: 285 Turk St. (original consideration 7/5/83).

IX. Remarks from the Public

Ted McCalla commented on the possible advantage to a landlord of leaving a unit vacant to obtain capitalization gains in certain situations.

X. Executive Director

The Commissioners went into Executive Session at 7:45 p.m. to discuss personnel matters. The Board came back on record at 8:35 p.m.

XI. Adjournment

President Flynn adjourned the meeting at 8:40 p.m.

NOTE: PH&D will not consider the certification amendments this month.

7/14/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, July 19, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

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President Flynn called the meeting to order at 5:37 p.m.

JUL 22 1983

II. Roll Call

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Commissioners Present: Chinchilla; Flynn; Saunders; Curran; Duggan;
Chan; Moy; Payne
Commissioners not Present: Alviar; Baird
Staff Present: Hernandez; Wicks

III. Approval of the Minutes

MSC: To approve the minutes of July 12, 1983, with the following corrections: Page One, Director's Report; line two should read "Mission Language and Vocational School"; Page three, X should read "Executive Session." (Chinchilla/Saunders: 5-0.)

IV. Appeal Considerations

1. 3225- 23rd St. #2

Landlord appealed Hearing Officer's decision affirming the earlier denial of last year's 7 percent increase because no evidence was offered to show the necessary repairs had yet been made; tenant appealed Hearing Officer's granting the current 7 percent increase since the tenant offered no evidence on the repair issue.

MSF: To remand the case to a new Hearing Officer.
(Saunders/Chinchilla: 2-3)

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Curran/Duggan: 4-1)

2. 250 Taylor St.

Landlord appealed Hearing Officer's decision granting tenant a reduction for service decreases. Landlord stated he had never received notice of the hearing.

MSC: To uphold the decision of the Hearing Officer and deny the appeal; to direct the Rent Board staff to review the decision for possible technical correction of a math error.
(Duggan/Saunders: 4-1.)

3. 57 Prospect Ave. Apt. A

Landlord appealed Hearing Officer's decision granting tenant reductions for decreases in service and failures to repair. Landlord stated he had not been notified of the hearing.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Duggan/Saunders: 3-2.)

V. Communications

1. A letter was received from Michael J. Berg, Esq., requesting a postponement of his client's hearing concerning 1606 Church St. until August 30, 1983 because of the unavailability of the parties.
2. President Flynn received a letter from tenant Stephen Richardson requesting a postponement because of his unavailability for the hearing on 3025- 25th St. The postponement was granted by the Commissioners.
3. Copies of the Progress article by George Devine on recent changes in the Rules and Regulations were distributed to the Commissioners.

VI. Director's Report

1. Director Hernandez mentioned that the proposed caretaker amendment to the eviction "just causes" has been taken off the PH&D calendar and postponed for an indefinite time. Also, PH&D has postponed the public hearing concerning Rent Board jurisdiction over capital improvements currently certified by the Real Estate Department.
2. The Executive Director distributed and discussed the figures for the June 1983 break-down of hearing and counseling requests received by the Rent Board staff.
3. The Director mentioned the statewide Rent Board workshop held in Berkeley, July 16, 1983, which was attended by several Commissioners from the San Francisco Rent Board, as well as staff members.
4. Mr. Hernandez attended the first course on the San Francisco rent Ordinance offered July 16, 1983, by the New Technologies Institute.

VII. Old Business

1. Commissioners Chinchilla, Curran, and Payne offered suggestions for revisions to the proposed Tenant's Rent History form. The form will be redrafted and again submitted to the Commissioners for approval.

VIII. Appeal Reconsideration

A. 2149-2151 Grove St.

The case concerning this property was remanded to the Board by the Court for reconsideration. The proceeding was scheduled for 6:30 p.m. and commenced at 6:34 p.m. Appearing was Landlord/Appellant William F. Worthington, Esquire, representing himself. Neither Tenant appeared.

At the direction of the Court, the Board reconsidered its determination in light of the Court's subsequent finding of extraordinary circumstances which could justify a rent increase beyond the limitations stated in Rules Section 6.10(a). The Court found extraordinary circumstances because: the landlord had pursued a policy of avoiding rent increases on the 2-unit building; he was forced to renegotiate an assumed note at high interest rates; and the Hearing Officer found that comparable rents in the area were approximately \$200.00 higher than the rents on the subject units. The large increase in debt service - incurred through no responsibility of the landlord - increased his already negative cash flow. The tenant in Apartment 2149 is residing abroad at this time.

MSC: To set aside the original decision, and the decision as amended for technical correction, adopted by the Board.
(Curran/Saunders: 5-0)

MSC: To establish the rent at the noticed amount of \$475.00 for each unit, effective June 1, 1983.
(Saunders/Duggan: 5-0)

MSC: The balance of rent due from Tenant Silva in Apartment 2151 shall be paid over a 12-month period, beginning August 1, 1983. The balance of rent due from Tenant Bauer in Apartment 2149 shall be due and payable within 5 days of receipt of this decision.
(Duggan/Saunders: 5-0)

IX. Adjournment

President Flynn adjourned the meeting at 7:25 p.m.

7/21/83:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, July 26, 1983 at 5:30 p.m. at the State Building

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I. Call to Order

President Flynn called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Alviar; Chinchilla; Flynn; Duggan; Chan;
Moy; Payne
Commissioners not Present: Baird; Curran; Saunders
Staff Present: Hernandez; Wicks; Henley

III. Approval of the Minutes

MSC: To approve the minutes of July 19, 1983
with the following correction: Page three, Appeal
Reconsideration; (second motion) line three should
read "June 1, 1982." (Chinchilla/Duggan: 5-0.)

IV. Communications

1. A letter to President Flynn was received from Roger B. Levin requesting a response to his June 27, 1983, memo concerning Rent Board jurisdiction over security deposits.
2. A letter of commendation for staff member Delene Wolf was received by the staff from David W. Seiff, Esq.

V. Old Business

1. An update was given on the recent eviction notices served on some tenants at 2300-04 Divisadero/2870-76 Washington.
2. Director Hernandez reported that staff members will research and report on the current status of the Kim case (2032 Mission) and Mizuhari case (2055 California.)

VI. New Business

1. Commissioner Chan requested information on the indexing system. Director Hernandez explained the project.

VII. Appeal Hearing

1. 285 Turk St.

A hearing was scheduled for 6:00 p.m. and began on the record at 6:20 p.m. Appearing were landlord-appellant Arthur Zemel; agent Matt Pontar; landlord's attorney Ralph L. Coffman, representing

the landlord. Also appearing were tenant-respondents Rosemary Royer, Lillian Renta, Josephine Hernandez, Fernando Lazaro, Almerio Palanca, Rosita Arce, and Gloria Manzano. Attorney Brent Kato appeared as tenants' advisor.

Landlord appealed Hearing Officer's decision holding that the building was under the jurisdiction of the Ordinance until substantial rehabilitation was certified; that the 30-day notices given before all permits were obtained were invalid; that the increase above 7 percent for improvements charged to tenants re-occupying their remodeled units was disallowed as it has not been certified by the Real Estate Department.

The parties broke to discuss a possible settlement. After the recess, all participants agreed to continue the case to August 2, 1983, in order to have time to draft a lease to incorporate the terms to be agreed upon by the parties.

VIII. Consideration of Allegations of Wrongful Eviction

A. Report from Staff

- | | |
|-------------------------|----------------------|
| 1. 1355 Folsom St. | 6. 320 Turk St. #305 |
| 2. 20 Franklin St. #310 | 7. 1273 Hayes St. #2 |
| 3. 27 Harris Place | 8. 459 Turk St. #331 |
| 4. 242 Ashton Ave. | 9. 287 Downey St. |
| 5. 575 O'Farrell St. | 10. 2586 Post St. |

MSC: To accept the recommendations of Hearing Officers and Staff. (Duggan/Alviar: 5-0.)

IX. Calendar Items

1. The Board will not meet August 9, 1983. All cases scheduled for that date will be held August 16, 1983.

X. Remarks from the Public

1. Ted McCalla from Old St. Mary's Housing mentioned his organization's participation in the San Francisco Fair, July 28-31, 1983.

XI. Adjournment

President Flynn adjourned the meeting at 7:50 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, August 2, 1983 at 5:30 p.m. at the State Building

 350 McAllister St. #1195

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I. Call to Order

President Flynn called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Flynn, Moy, Payne, Saunders

Commissioners not Present: Chan, Chinchilla

Staff Present: Francis, Henley

Commissioner Curran appeared on the record at 5:39. Commissioner Duggan appeared on the record at 5:43.

III. Approval of the Minutes

MSC: To approve the minutes of July 26, 1983.
 (Alviar/Saunders: 4-0.)

IV. Communications

1. Letters of commendation for staff member Delene Wolf and Hearing Officer Steve Carp were received by the staff from the Rent Stabilization Board of the City of Berkeley.
2. A letter to Director Ricardo Hernandez was received from Jerry Levitin requesting a policy statement from the Board about an alleged conflict of the Rent Ordinance with the Residential Hotel Conversion and Demolition Ordinance. The matter will be referred to the City Attorney.
3. A copy of a letter sent by staff member Alma Parra to John Walsh, Director of Civil Service was received by the Board.

V. Consideration of Allegations of Wrongful Eviction

A. Report from Staff

1. 342- 24th Ave.
2. 20 Rosemont Place
3. 460 Day Street
4. 881- 37th Ave.
5. 2120 Pacific Ave. #305
6. 2444- 33rd. Ave.
7. 9 Dehon St. #5 and #9
8. 837 Geary St. #105

MSC: To accept the recommendation of staff.
(Saunders/Alviar: 4-0.)

VI. Old Business

1. Commissioner Duggan requested information about the status of Hearing Officer's standards and procedures.

VII. Calendar Items

There will be a de novo hearing before the Board on 5-9 Dehon/
3459-63- 16th Street, on August 23, 1983 at 6:00 p.m.

VIII. Remarks from the Public

1. Roger Levin reiterated comments made to the Board in a letter concerning Rent Board jurisdiction over security deposits.
2. Jim Faye of the Tenant's Union; Ted McCalla of Old St. Mary's Housing Group and tenant- Diana Porter, all expressed their views about a relationship between failure to pay requested increases in security deposits and eviction.
3. Mr. Scott, a landowner expressed his concern about the length of the residency requirement of Section 37.9(a)(8) of the Ordinance.

IX. Appeal Hearing

1. 285 Turk Street

A reconvening of the hearing held on July 26, 1983, was scheduled for 6:00 p.m. and began on the record at 6:08 p.m. Appearing were landlord-appellant Arthur Zemel; agent Matt Pontar; landlord's attorney Ralph L. Coffman, representing the landlord. Also appearing were several tenant-respondents. Attorney Brent Kato appeared as tenants' advisor.

Landlord appealed Hearing Officer's decision holding that the building was under the jurisdiction of the Ordinance until substantial rehabilitation was certified; that the 30-day notices given before all permits were obtained were invalid; that the increases above 7 percent for improvements charged to tenants re-occupying their remodeled units was disallowed as it has not been certified by the Real Estate Department.

The landlord's attorney read into the record the terms of a stipulation to which several but not all of the respondents have agreed.

MSC:

1. Reverse that portion of the Hearing Officer's decision which states that any future unlawful detainers are invalid (page 7, lines 6-7 of decision.)
2. The Board finds a substantial likelihood that substantial rehabilitation will take place in this building in the future.
3. All tenants who accept the terms of the stipulation read into the record will be protected by its terms.
4. Any tenant who does not accept the terms of the stipulation may risk a future eviction under the provisions of Section 37.9(a)(12) of the Ordinance; or because of landlord's exemption from the Ordinance. (Flynn/Payne: 4-0.)

X. Adjournment

President Flynn adjourned the meeting at 6:39.

8/9/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, August 16, 1983 at 5:30 p.m. at the State Building

*****350 McAllister St. #1195*****

I. Call to Order

Commissioner Baird called the meeting to order at 5:40 p.m.

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II. Roll Call

Commissioners Present: Baird, Chan, Curran, Moy, Payne

Commissioners Not Present: Alviar, Chinchilla, Saunders

Staff Present: Henley, Hernandez, Swartz, Wicks

President Flynn appeared on the record at 5:40 p.m. Commissioner Duggan
appeared on the record at 5:50 p.m.

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III. Approval of the Minutes

MSC: To approve the minutes of August 2, 1983, with
the following correction: Consideration of
Alleged Wrongful Eviction, p.3 should read:
(Saunders/Alviar: 4-0)

IV. Appeal Considerations

*1. 3025-25th Street

Landlord appealed Hearing Officer's decision denying a portion of
a previously uncontested rent increase noticed before the effective
date of the April 1, 1982, Amendments to the Ordinance. Landlord
further contested the denial of a \$25 monthly fee imposed in 1983
for storage space used without charge since 1981.

MSC: To accept the appeal on the record with the
exception of the limited issue of whether the
storage area is part of agreed-on housing services,
such issue to be heard de novo at the Board level.

(Baird/Payne: 4-0)

2. 447 Bush Street, #401

Master-lessor/Landlord appealed Hearing Officer decision granting
Tenant a Decrease in Service award for a severe mildew problem.
Owner, but not Master-lessor, was notified of the first hearing; a
second hearing was held following notice to both Master-lessor and
Owner. Master-lessor denied receiving said notice.

MSC: To uphold the Hearing Officer's decision and deny
the appeal.

(Curran/Chan: 4-0)

3. 342-24th Avenue, #2

Tenant appealed Hearing Officer decision that a new rent anniversary date was not created when Landlord served--and later rescinded--an eviction notice. Tenant argued that the notice terminated his tenancy and that a new tenancy was created by the dismissal of the unlawful detainer action.

MSC: To uphold the Hearing Officer's decision and deny the appeal.

(Baird/Payne: 4-1)

V. Remarks from the Public

1. Stephen Richardson, Tenant, expressed distress upon learning that his Decrease in Service award could be overturned on appeal.
2. Ted McCalla of the Old St. Mary's Housing Committee voiced his concern about the rearrangement of the Agenda. He felt the public should be allowed to offer comments at the end of the meeting.

VI. Consideration of Allegations of Wrongful Eviction

A. Report from Staff

- | | |
|--|--|
| 1. 1499 California St. #s 103, 106,
114, 118, 238, 361, 364, 471,
473, 475, 484, 485 | 5. 2186 Union St. #1, 6,
8, 14 |
| * 2. 1675 Green St. #3 | 6. 1036 Polk St. #408, 206,
and 508 |
| 3. 194 B Lowell St. | 7. 1115 Taylor St. #4 |
| 4. 1750 Fillmore St. | 8. 1476 Valencia St. #1 |

MSC: To accept the recommendations of the Staff with the exception of item 1 (1499 California St.), which shall be scheduled for a de novo hearing before the Board.

(Baird/Payne: 5-0)

VII. Communications

1. William B. Mitchell of the Nob Hill Group wrote President Flynn and Director Hernandez asking for guidance in relation to a possible substantial rehabilitation project.
2. Michael Weisberg, Esq., presented the Board with an application for substantial rehabilitation certification.
3. Rent Board Staff member Laura Swartz submitted a memo to the Commissioners concerning substantial rehabilitation and the need for a mechanism to determine when such rehabilitation has occurred. The Board requested that the Staff discuss implementation of a substantial rehabilitation certification process.

VIII. Director's Report

1. Director Hernandez thanked Commissioner Payne for assisting the Staff in exploring the use of computers for the indexing project and for general office procedures. He also thanked Commissioner Payne for attending the August 5, 1983, Hearing Officer brown bag luncheon.
2. Executive Director Hernandez reported that a meeting was held August 16, 1983, with PH&D to discuss Rent Board assumption of the capital improvement certification process currently under Real Estate Department jurisdiction. The topic will be addressed by the Board of Supervisors at their meeting Monday, August 22, 1983.

IX. Old Business

1. Commissioner Payne requested a status report on 285 Turk Street. Mr. Hernandez noted that the lease agreement had been received at the Rent Board on August 16, 1983, and would be attached to the Board's decision.
2. Commissioner Payne asked for a report on outreach, to be discussed at the August 23, 1983, Board meeting. He also inquired about recruitment of minority Hearing Officers. Director Hernandez stated that three minority Hearing Officers have been hired recently.
3. Concerning eviction cases, Commissioner Payne inquired about the status of the Mizuhara and Kim cases and the status of all cases referred to the District Attorney for follow-up. A report from the Staff on these matters will be made in the next several weeks.

X. New Business

1. The Commissioners requested that the Staff devise a method for making certain that all parties are aware of the appeal procedure. The Hearing Officers will be reminded to explain the process at each hearing, and a statement will be included in every decision.

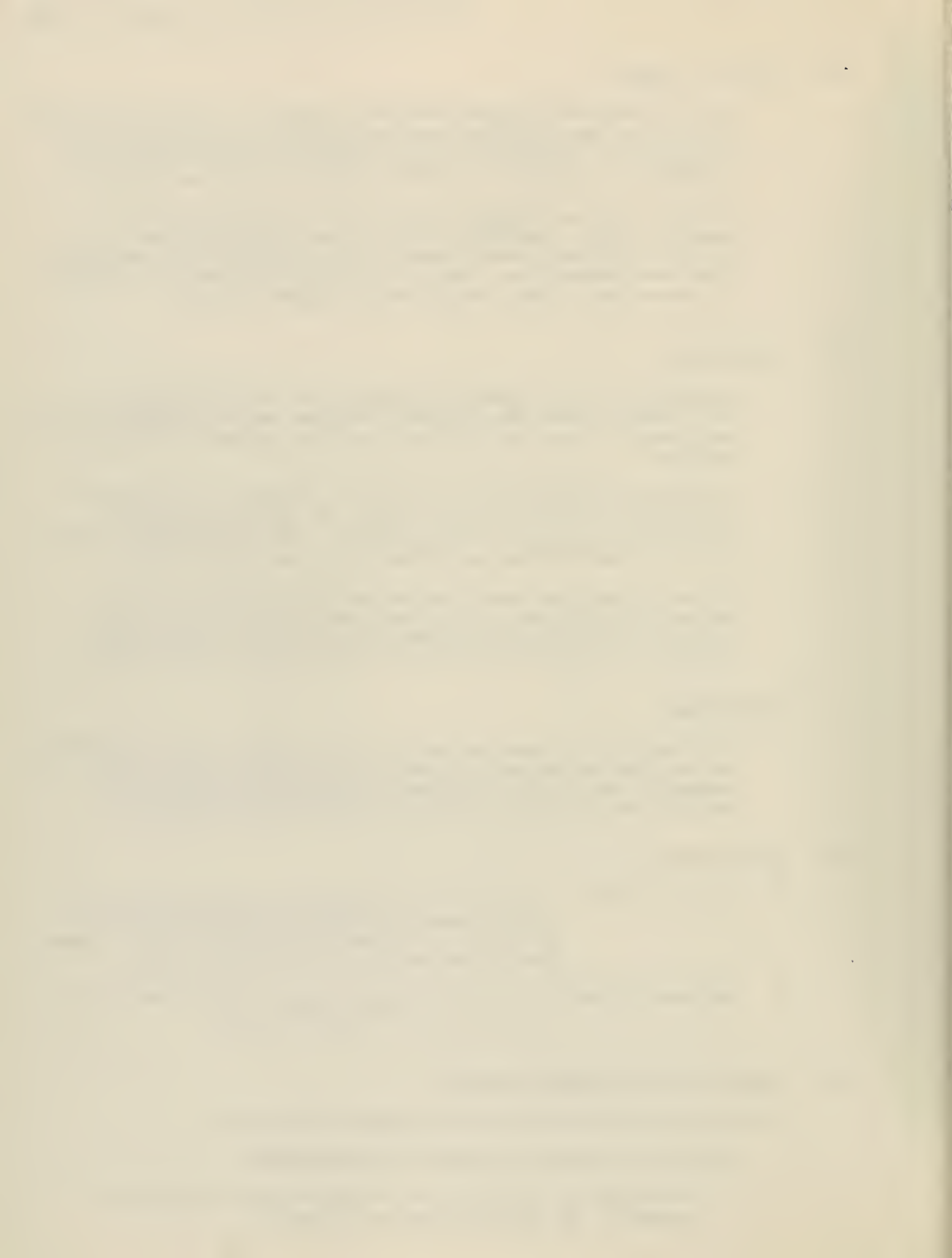
XI. Calendar Items

1. August 30, 1983: The Board will consider the limited issue of the storage space for 3025-25th Street at 5:45 p.m. At 6:00 p.m. the Board will hold a de novo eviction hearing concerning 1606 Church Street, #3.
2. September 6, 1983: A de novo eviction hearing will be held by the Board for 1499 California Street.

XII. Remarks from the Public (reopened)

President Flynn reopened the Public Remarks at 7:16 p.m.

1. Ted McCalla expressed a number of considerations:
 - a. He thanked the Board for their consideration in reopening the Remarks to the Public portion of the Agenda.



- b. Mr. McCalla felt there should be a smaller filing fee for buildings in which substantial rehabilitation appears certain on the face of documentation submitted.
- c. He requested that court reporters used in Rent Board hearings identify themselves and sign a Notice of Appearance form.
- d. Mr. McCalla commended the Board on the record for their exemplary handling of the 285 Turk Street hearing.

XIII. Adjournment

President Flynn adjourned the meeting at 7:25 p.m.

8/18/83: aw



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, August 23, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

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President Flynn called the meeting to order at 5:34 p.m. AUG 29 1983

II. Roll Call

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Commissioners Present: Flynn, Alviar, Chinchilla, Saunders, Curran,
Moy

Commissioners not Present: Chan, Duggan

Staff Present: Hernandez, Henley, Swartz, Wicks

Commissioner Baird appeared on the record at 5:45 p.m. Commissioner
Payne appeared on the record at 5:46 p.m. Commissioner Alviar went
off the record at 6:50 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of August 16, 1983 with
the following corrections: Appeal Consideration,
page 1, #1 should read: "To accept the appeal
on the record, limited to the issue of"
#2 should read: "(Curran/Chan: 4-1.)"
Communications page 2, #3 should include: "This
procedure would include: a landlord's petition;
notice to all parties, including tenants no
longer residing in the building; a hearing, at
which the Hearing Officer would determine if
substantial rehabilitation had occurred; and
an appeal process."

(Saunders/Alviar: 4-0)

IV. Appeal Considerations

A. 78 Buchanan St.

Tenant appealed Hearing Officer decision delaying imposition of
the annual 7 percent increase until certain needed maintenance and
repair work was completed by the landlord. Tenant had not petitioned
for Decrease in Services but felt the Failure to Repair award was
insufficient.

MSC: To uphold the Hearing Officer's decision and
deny the appeal. (Saunders/Chinchilla: 4-0.)

B. 322 Bridgeview

Landlord appealed Hearing Officer's decision denying Capital Improvement costs for a new furnace. Hearing Officer found no evidence that the improvement was necessary for health or safety reasons; that the tenant had repeatedly told the landlord she could not afford additional rent and found the old furnace adequate.

MSC: To accept the appeal de novo at the Board level. (Baird/Chinchilla: 5-0.)

C. 1409 Masonic, #2, 3, 4

Landlord appealed Hearing Officer's decision reducing the allowable increase for Operating and Maintenance expenses for tenants in a building under RAP (Rehabilitation Assistance Program).

It was the consensus of the Board to put the case over for a brief period so that the Hearing Officer could appear to discuss the decision.

D. 455 Hoffman Ave.

Landlady appealed Hearing Officer's decision granting a Decrease in Services award for inconvenience and loss of use of a portion of the property after one level of the building was converted to an independent studio apartment. Landlady maintained tenants were informed of the probable construction at the time of their initial tenancy; and that the actual inconvenience to the tenants was far less than represented at the hearing. Since the decision was rendered, two of the three tenants have moved and the remaining tenant does not want a rent reduction.

MSC: To remand for a new hearing.
(Saunders/Alviar: 5-0.)

E. 816 Arguello

Tenant appealed Hearing Officer's decision holding that tenant was not an approved subtenant; and that when the original tenant vacated, the unit became decontrolled and the landlord could set a new rental amount. Tenant maintained landlord knew of his residency for several years, but landlord said he learned of this tenant's presence only in spring 1983.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Alviar/Saunders: 4-1.)

V. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 10, 12, 14, Cypress St.
2. 1694 Green St., Apt. B
3. 545 O'Farrell St., #110

MSC: To accept the recommendations of the staff.
(Chinchilla/Alviar: 5-0.)

B. Hearings

1. Dehon St., #5, 7, 9 - Case No. D10-14(E) and D10-21(E)
2. 3459- 16th St.
3. 3461- 16th St.

A hearing was held de novo at the Board level to investigate a possible pattern of questionable evictions. Landowner had evicted a number of tenants for occupancy by her children and mother; these relatives—in some cases—did not move into the vacated units or remained there a short time.

Testimony and written evidence were received from the landlady and one of the tenants. It was the consensus of the Board to recess the hearing and leave the record open until one of the involved tenants—who could not attend—was given a chance to appear if he so desires.

VI. Director's Report

1. Executive Director Hernandez asked that a date be set for a public hearing before the Rent Board on certified capital improvements. September 20, 1983 at 7:00 p.m. was the chosen date.
2. Staff member Laura Swartz distributed copies of her memo on the substantial rehabilitation certification process. Attached were Rules and Regulations drafts and a draft of application forms and schedules. Ms. Swartz asked that the Board review the material for later comments and suggestions.
3. Ms. Swartz also submitted a memorandum on current minority hearing officer recruitment and hiring; and an additional memo on community outreach efforts.

VII. Communications

1. A letter from Roger B. Levin to Deputy City Attorney Kathryn Pennypacker (cc:to President Russell B. Flynn) was received.

Mr. Levin requested that Ms. Pennypacker give her legal opinion about his memo on whether security deposits are under the jurisdiction of the Rent Board.

2. Eviction Counselor Janet Henley informed the Board that several landlords had expressed concern that there is no formal appeal process for challenging the Summary of Evidence in wrongful eviction cases. This and related items will be discussed more fully in the future.

VIII. Calendar Items

1. The Board's public hearing at 7:00 p.m., September 20, 1983, will address Rent Board assumption of capital improvement and substantial rehabilitation certifications.
2. The de novo hearing on 322 Bridgeview will be held by the Board at 6:00 p.m., September 20, 1983.

IX. Adjournment

President Flynn adjourned the meeting at 8:06 p.m.

8/25/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, August 30, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

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President Flynn called the meeting to order at 5:34 p.m.

SEP 6 1983

II. Roll Call

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Commissioners Present: Flynn, Chinchilla, Saunders
Commissioners not Present: Alviar, Baird, Chan, Moy, Payne
Staff Present: Hernandez, Henley, Wicks

Commissioners Curran appeared on the record at 5:40 p.m. Commissioner
Duggan appeared on the record at 5:58 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of August 23, 1983,
with the following correction: Page 2,
Consideration of Appeals, part E, should read:
"subtenant." (Saunders/Chinchilla: 3-0).

IV. Consideration of Appeals

A. 1151 Post St., #15

Landlord appealed Hearing Officer's decision, stating that he had
not received notice of the hearing.

MSC: To remand the case to a different Hearing
Officer to hear de novo.
(Saunders/Chinchilla: 3-0).

B. 32 Bucareli Dr.

Tenant appealed Hearing Officer's decision, stating that the
PG&E pass-through had been based on the wrong calculation period;
and that the annual 7 percent increase was mistakenly calculated
on the base rent figure before a voluntary tax rebate had been
subtracted.

MSC: To uphold the Hearing Officer's decision and
deny the appeal. (Saunders/Chinchilla: 3-0).

C. 391 Leavenworth St. #23

Tenant appealed Hearing Officer's decision, contending that a 20
percent rent reduction for a period without heat and a 10 percent
reduction for a period with sporadic heat were insufficient
compensation.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Saunders/Chinchilla: 4-0).

D. 1342- 8th Ave., #2

Tenant appealed Hearing Officer's decision allowing landlord increases for capital improvement, operating/maintenance, and PG&F pass-through. Tenant felt some of the documentation was inadequate and that he was paying for services from which he did not benefit.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Saunders/Curran: 4-0).

V. Communications

1. The Board received a letter, with exhibits, from landlord Edmund Grammens, requesting that the Board reconsider his denied appeal. There is no mechanism in the law for such a procedure.
2. A letter from Attorney Jonathan McCurdy was received by the Board, informing them that there would be no appearance at the scheduled eviction hearing for 1606 Church St. #3 before the Board since his client was pursuing the matter in a municipal court action.

VI. Appeal Hearing

1. 3025- 25th St.

A hearing was scheduled for 5:45 p.m. and began on the record at 5:50 p.m. Appearing were Landlady-Appellant Mary Tallerico, her attorney Daniel Buchalter, and Tenant-Respondent Stephen Richardson.

Landlady appealed Hearing Officer's decision denying a portion of a previously uncontested rent increase noticed before the effective date of the April 1, 1982 amendments to the Ordinance. Landlady further contested the denial of a \$25 monthly fee imposed in 1983 for storage space used without charge since 1981. The Board accepted the appeal on the limited issue of whether the storage area is part of agreed-on housing services.

MSC: To correct the Hearing Officer's decision on the voiding of the notice. The notice given on March 24, 1982 to take effect on April 24, 1982 is not void as to the 7 percent increase. The landlady may give a 30-day notice for the cost of the storage, the charge to be determined by landlady. After receipt of such notice, the tenant may elect to accept the terms of the notice or remove his personal property from the storage facility. (Curran/Saunders: 3-2).

VII. Eviction Hearing

1. 1606 Church St., #13

Tenant was evicted from his unit because landowner desired the unit for her use. Landowner resides in a house two blocks from the subject unit.

Landowner appealed the Hearing Officer's determination that a wrongful eviction occurred. After the hearing, the tenant filed suit against the landlord in Municipal Court, and this suit is presently pending. Tenant's attorney informed the Board on the date of the hearing that he would not appear because of the pending lawsuit.

MSF: To proceed with the hearing since no good cause was shown to warrant a postponement.
(Chinchilla/Duggan: 2-3).

MSC: To set aside the Hearing Officer's determination and continue the hearing at a later date.
(Curran/Flynn: 4-1).

VIII. Director's Report

1. Executive Director Hernandez mentioned that he will appear on "Viewpoint" on TV Cable 6, Friday, September 2, 1983, at 6:30 p.m. He will discuss the new security deposit ordinance and Rent Board assumption of certified capital improvements.
2. Director Hernandez reported that the Board of Supervisors gave its approval for granting the Rent Board jurisdiction over certified capital improvements. Pending approval by the Mayor, the Rent Board staff is preparing a draft of Rules and Regulations covering this area.

IX. Old Business

1. Eviction Counselor Janet Henley stated that she is preparing a memorandum for the Board of staff concerns and suggestions for possible challenges to Summaries of Evidence in eviction cases.

X. New Business

1. Commissioner Chinchilla expressed his concern that there often is no handwritten signature - only typed initials - on proofs of service sent from the Rent Board. Executive Director Hernandez stated that this situation has lately been remedied.

XI. Adjournment

President Flynn adjourned the meeting at 6:55 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, September 6, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Baird, Chinchilla, Flynn, Payne

Commissioners not Present: Alviar, Duggan, Saunders

Staff Present: Henley, Hernandez, Swartz, Wolf

Commissioner Moy appeared on the record at 5:32 p.m. Commissioner
Chan appeared on the record at 5:45 and went off the record at 8:05 p.m.
Commissioner Curran appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of August 30, 1983.
(Chinchilla/Flynn: 4-0).

IV. Consideration of Appeals

A. 75 Gough St. #4, 8, 17, 26

Landlord appealed Hearing Officer's decision disallowing a PG&E
pass-through and certain capital improvements, and alleging that
a \$50.00 increase was based on an agreement regarding number of
occupants. Consideration of this appeal was set aside for one
week.

B. 601 O'Farrell St. #314

Tenant appealed Hearing Officer's decision granting a rent reduc-
tion due to decreased housing services, alleging that the PG&E
pass-through portion of the rent increase was incorrectly calcula-
ted.

MSC: To deny this appeal. (Payne/Baird:4-0,
Commissioner Flynn disqualified himself from
the vote).

C. 17 Powell St.

Landlord appealed Hearing Officer's decision granting a rent reduc-
tion due to the loss of free maid service.

MSC: To deny this appeal. (Payne/Flynn: 4-0).

D. 2154 A Market St.

Tenants appealed Hearing Officer's decision denying an improperly calculated PG&E pass-through, but allowing a 7 percent increase due to necessary repairs having been made and an increase due to certain capital improvements. Tenants' contention was that their rent should have been reduced due to decreased services.

MSC: To deny this appeal. ((Chinchilla/Baird: 4-0)).

V. Communications

1. The Board received a letter from Ken Johnson regarding the calculation of PG&E pass-through's.

VI. Consideration of Allegations of Wrongful Eviction

A. Report from Staff

1. 1385- 16th St.

MSW: To not adopt the recommendations of the Hearing Officer and take no action in this case. (Curran/Payne).

MSC: In view of litigation pending before the court in this matter, the Rent Board chooses not to rule on the merits of this case and hereby sets aside the Hearing Officer's decision which shall have no force or effect. (Baird/Payne: 5-0).

2. Dehon St., #5, 7, 9

MSC: To find that there is insufficient evidence of wrongful eviction in this case and therefore to take no action. (Chinchilla/Payne: 5-0).

B. Hearing

A hearing was held de novo at the Board level after a Hearing Officer's finding of attempted wrongful eviction and suggested referral to the District Attorney for possible criminal prosecution. Landlord had initially informed several tenants that they intended to commence "certain improvements" and that tenants might be evicted. A second letter presented tenants with three options: (a) move within 14 days, receive \$200 in moving expenses, and waive the right to reoccupy the unit; (b) relocate to another unit at decontrolled rent; and (c) remain in unit and pay in excess of a 7 percent increase or be evicted.

After a first hearing, the landlord rescinded the eviction notices, although several tenants had already vacated. The Hearing Officer found that the landlord sought to trigger vacancy decontrol or coerce tenants into paying unlawful rent increases. The consensus of the Board was to consider this matter in Executive Session.

MSC: Based on the evidence presented, the Board finds the existence of attempted wrongful evictions in this case. (Chinchilla/Curran: 5-0).

MSC: To refer this case to the District Attorney for possible criminal prosecution. (Baird/Payne: 5-0).

VII. Director's Report

1. The Executive Director distributed copies of proposed Rules and Regulations for certification of capital improvements by the Rent Board.

VIII. New Business

There was a brief discussion of the Board's policy regarding the granting of continuances.

IX. Calendar Items

1. The timetable for the mailing of notices regarding the Public Hearing on September 20, 1983 was discussed. The Hearing will address Rent Board assumption of capital improvements and substantial rehabilitation certifications.

X. Remarks from the Public

1. Mr. Grahmins of John Pappa Real Estate requested once again that the Board reconsider their denial of his appeal.

XI. Adjournment

President Flynn adjourned the meeting at 8:30 p.m.

9/8/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, September 13, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

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SEP 16 1983

II. Roll Call

Commissioners Present: Alviar, Baird, Flynn, Payne

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Commissioners not Present: Saunders, Curran, Duggan

Staff Present: Henley, Hernandez, Swartz, Wicks

Commissioner Chinchilla appeared on the record at 5:34 p.m. Commissioner Chan appeared on the record at 5:38 p.m. Commissioner Moy appeared on the record at 5:47 p.m. President Flynn went off the record at 7:11 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of September 6, 1983 with the following change: Consideration of Wrongful Evictions, p. 2, VI B: "(b) re;pcate to a vacant unit at rent that could be obtained if the room were made available to the general public; or (c) remain in unit and pay an amount equal to 7 percent less than the rent that could be obtained if the room were made available to the general public." (Baird/Alviar: 4-0).

IV. Consideration of Appeals

A. 4168- 24th St., Apt. C

Landlord appealed Hearing Officer's decision determining that a settlement reached by the parties was broken down into a monthly sum of \$202.12 for base rent and \$37.88 for capital improvements. Landlord maintained that the agreement contemplated a base rent of \$240.00 and that capital improvements costs can be assessed additionally.

MSC: To take the appeal on the record at the Board level allowing each side 5 minutes to speak to the issue raised on appeal. (Baird/Saunders: 5-0).

B. 35 Reed St.

Landlord appealed Hearing Officer's decision de novo on remand, granting tenant awards for decreases in service and failures to

repair including for conditions existing when the tenant began her initial tenancy. Landlord maintains that the money award to tenant is improper and beyond the jurisdiction of the Board.

MSC: To hear the case do novo at the Board level.
(Payne/Baird: 5-0).

C. 1881 Sutter St., #101

Tenant appealed Hearing Officer's decision determining that an oral modification of the subject rental agreement was satisfied in that the tenant received new carpeting in his unit in return for an agreed-upon acceleration of his anniversary date. Hearing Officer further determined that such agreement took place while the building was under the exclusive jurisdiction of HUD. Tenant maintains that his unfamiliarity with English made him unable to fully represent himself at the hearing and present his contention that the oral agreement was to only cover costs of the new carpet, and that no acceleration of the anniversary date was involved.

MSC: To remand the case to a new Hearing Officer, the hearing to be conducted with the assistance of a Chinese language interpreter. (Payne/Chinchilla: 4-1).

D. 75 Gough St., #4, 8, 17, 26

Landlord appealed Hearing Officer's decision disallowing a PG&E pass-through and certain capital improvements, and alleging that a \$50 increase was based on an agreement regarding the number of occupants.

MSC: To affirm the Hearing Officer's decision - as modified - with the exception of the PG&E issue for Apts. 4, 8, 17 and 26; that the Board leaves it to staff discretion whether the Hearing Officer can review the PG&E issue solely on the record or hold a new hearing on this limited issue. (Baird/Alviar: 5-0).

V. Director's Report

1. Executive Director Hernandez reported that the Rent Board staff is preparing to implement the capital improvement certification process. October 2, 1983, is the effective date of the amendment.
2. Director Hernandez stated that over 800 notices have been sent to community organizations and agencies for the Public Hearing before the Rent Board Commissioners on September 20, 1983, at 7:00 p.m.

3. Mr. Hernandez will conduct a workshop on the rent law at the Mission Family Center on Tuesday, September 20, 1983, at 9:30 a.m. Laura Swartz reported that the Pacific Heights Neighbors have invited her to speak to their organization on October 23, 1983.

VI. Consideration of Allegations of Wrongful Eviction

A. Report from Staff

1. 262/264 Dolores St.
2. 2870-76 Washingto St./2300-2304 Divisadero St.

MSC: To accept the recommendation of Hearing Officer and staff concerning 262/264 Dolores Street; to set aside consideration of Washington/Divisadero for one week. (Baird/Payne: 5-0).

4. Eviction Counselor Janet Henley submitted to the Commissioners a memo on the Rent Board eviction process.
5. Ms. Henley reported on a meeting she and Director Hernandez had with David Moon, in which they discussed reoccurring faulty rent increase notices that appear to be designed to trigger vacancy decontrol or to coerce tenants into paying illegal increases.

VII. Old Business

1. The Commissioners discussed the drafts of proposed changes to the Rules and Regulations in the areas of certified capital improvements and substantial rehabilitation. The staff will review the proposed Rules in light of the Board's suggestions and have the revised drafts available on Thursday, September 15, 1983.

VIII. New Business

1. Commissioner Payne reported on the tour of Chinatown housing conditions--sponsored by the Chinatown Coalition for Better Housing--in which he and Director Hernandez participated. Among the problems highlighted were vacancy decontrol and tenant fears of rent increases following completion of needed capital improvements.
2. Commissioner Baird requested a discussion next week under New Business of the problem of "soft" or cosmetic capital improvements (not necessary for health or safety reasons). He expressed his concern that tenants might be forced to vacate because of increases for such improvements, or that such work would qualify the building for exemption from the Ordinance under the substantial rehabilitation provision. Commissioner Payne would like to have a study conducted to determine how often such results occur.

IX. Calendar Items

1. September 20, 1983
6:00 p.m.- 322 Bridgeview
7:00 p.m.- Public Hearing
2. September 27, 1983
6:00 p.m. - 815- 25th Ave.

X. Remarks from the Public

1. Mr. Ed Schemoon --tenant in the eviction case at 1385- 16th Ave.-- expressed his disappointment that the Board voted to take "no action" on his case. It was explained that the Board so voted because his case is currently being heard in Municipal Court.

XI. Adjournment

The meeting was adjourned at 7:29 p.m.

9/15/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, September 20, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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I. Call to Order

President Flynn called the meeting to order at 5:41 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Flynn, Curran,
Moy, Payne

Commissioners not Present: Duggan

Staff Present: Hernandez, Swartz, Wicks, Wolf

Commissioner Chan appeared on the record at 5:50 p.m. Commissioner
Saunders appeared on the record at 6:12 p.m. and went off the record
at 7:42 p.m. President Flynn went off the record at 7:31 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of September 13, 1983,
with the following corrections: Page 1, III,
Approval of the Minutes, line 3 should read
"relocate"; IV Consideration of Appeals:
"(Baird/Payne)"; page 3, VI Consideration of
Allegations of Wrongful Eviction, A-2: "2870-76
Washington St." (Alviar/Baird: 5-0).

IV. Communications

1. Director Hernandez drew attention to the memo of staff member
Laura Swartz concerning a further amendment to Rules and Regulations
Section 1.15.

V. Director's Report

1. Executive Director Hernandez noted that the Rent Board was
scheduled for two items on the PH&D calendar, September 20, 1983.
These items are:
 - a. Special funding to pay for estimators;
 - b. protection under the Ordinance for Section 8 tenants.
2. In response to questioning, Mr. Hernandez briefly described
Supervisor Harry Britt's proposed amendments to the Ordinance.
His proposals will be heard at PH&D on September 26, 1983.

3. Director Hernandez reported on the rent workshop he conducted at the Mission Family Center, September 20, 1983.

VI. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

2300-2304 Divisadero/2870-76 Washington

Eviction Counselor Janet Henley submitted a memo stating that no unlawful detainers had been issued in this case but that the landowner refused to rescind the previously-served three day notices.

The Commissioners expressed concern that the landlady's attorney has apparently ignored the Board's directives in this case.

VII. Old Business

Appeals Counselor Alicia Wicks noted that the appeal for 1409 Masonic has been withdrawn.

VII. Appeal Hearing

1. 322 Bridgeview (Original consideration 8/23/83)

An appeal hearing was scheduled for 6:00 p.m. The hearing was delayed 15 minutes to allow the tenant to appear. She did not do so, and the hearing was convened at 6:15 p.m. Present was landlord Clifford Sweet.

The landlord had appealed the Hearing Officer's decision denying capital improvement costs for a new furnace. The Hearing Officer found no evidence that the improvement was necessary for health or safety reasons; that the tenant had repeatedly told the landlord she could not afford additional rent and felt the old furnace was adequate. In rebuttal the landlord stated that he had replaced the furnace in response to the tenant's concerns and her successful use of the failure to repair defense.

The Board discussed their concern about installation of improvements that would modernize a building but were not necessary on a health or safety basis. The Commissioners noted the case where a landlord intentionally "manufactures" capital improvement work in order to raise the rent high enough to constructively evict tenants. They also discussed the situation where a landlord has no intention of evicting anyone but makes improvements that result in some tenants moving because of inability to pay the increased rent. Also discussed were the process in which tenants raise objections to capital improvements and tenant hardship.

MSC: To vacate the Hearing Officer's decision and grant the landlord's appeal, with the interest charge to be reduced to 9 percent since the loan was not secured by the property.
(Baird/Saunders: 5-0).

VIII. New Business

1. Commissioner Tom Saunders informed the Board that he has written the Mayor to announce his resignation from the Board because of other community involvements. He will serve until the Mayor appoints a successor.

IX. Public Hearing

President Flynn convened the Public Hearing at 6:45 p.m.

The following speakers were present:

Michael Harney -	Affordable Housing Alliance
Joe Lacey -	Old St. Mary's Housing Committee
Conrad Breece, Esq. -	
Ted McCalla -	Old St. Mary's Housing Committee
Eva Cheng -	Chinatown Coalition for Better Housing

The following items were among those discussed by the speakers:

1. The substantial rehabilitation process is a "loophole" in the law and should be eliminated.
2. The dollar amounts for certification of "substantial" are too low.
3. More objective criteria are needed for the "estimator" - description of qualifications, conflict of interest considerations, standards for using an estimator.
4. Inclusion of energy conservation work in the list of improvement work covered under these Rules.
5. Interest on loans for improvement work should be amortized over the actual life of the loan, not the 7 or 10 year amortization period allowed for the improvements themselves.
6. Bids should not be used as significant evidence of costs actually incurred for improvement work.

The Commissioners directed the Rent Board staff to review the suggestions of the public and the Commissioners and redraft the relevant sections. The Board wishes to approve the Rules at the September 27, 1983 meeting.

X. Adjournment

The meeting was adjourned at 7:49 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, September 27, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

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The meeting was called to order at 5:33 p.m. by Vice-President
Tom Saunders.

OCT 4 1983

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II. Roll Call

Commissioners Present: Alviar; Baird; Chinchilla; Saunders; Moy

Commissioners not Present: Flynn

Staff Present: Henley; Hernandez; Swartz; Wicks

Commissioner Curran appeared on the record at 5:36 p.m. Commissioner
Chan appeared on the record at 5:49 p.m. and went off the record at
7:15 p.m. Commissioner Payne appeared on the record at 5:50 p.m.
Commissioner Duggan appeared on the record at 6:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 20, 1983.
(Chinchilla/Baird: 5-0).

IV. Consideration of Appeals

A. 1762- 9th Ave.

Landlord appealed Hearing Officer's decision disallowing an
unpetitioned-for increase above 7 percent, determining that the
property at issue was not owner-occupied and not exempt from the
Ordinance. The premises consist of a lot with two buildings of
three units each. Tenant and landlord both live in the front
unit; landlord has also lived in several of the back units. The
Hearing Officer held that the property consisted of six units,
controlled by the Ordinance.

MSW: To deny the appeal. (Baird/Alviar)

MSC: To accept the appeal at the Board level limited
to the issue of owner-occupancy of the two
buildings. (Chinchilla/Alviar: 5-0).

B. 955 Burnett St. #3

Landlord appealed Hearing Officer's decision that a building contain-
ing 4 units - one of which is an illegal "in-law" unit built by the
owners and currently occupied by them - is within the jurisdiction
of the Ordinance. Landlords hold property interests in several

other residences, and various indications of residency were offered for each of these addresses. Hearing Officer determined that the Ordinance requirements for owner "occupancy" were not met by the landlord's residing in a unit for which there was no certificate of occupancy, and that a landlord could not profit from noncompliance with one law while claiming the protection of another.

MSC:¹ To deny the appeal and uphold the Hearing Officer's decision. (Baird/Chinchilla: 4-1).

MSC:² To vacate the Hearing Officer's decision and accept the case at the Board level de novo to discuss the policy issue involved. (Baird/Alviar: 5-0).

C. 884 Lombard St.

Tenant appealed Hearing Officer's decision that the withdrawal of use of garage space did not constitute a decrease in services. Tenant and owner's nephew resided in the unit and both used the garage. Owners maintained that the garage use has traditionally been reserved for relatives and that the tenant was allowed to use it as a courtesy only, not as a housing service.

MSC: To deny the appeal and uphold the Hearing Officer's decision. (Baird/Alviar: 5-0).

D. 115 Gough St.

Landlords appealed Hearing Officer's decision granting a decrease in services award while the building was under their ownership, and delaying the 7 percent annual increase under the ownership of the current landlords until necessary repairs are made.

MSC: To deny the appeal and uphold the Hearing Officer's decision. (Baird/Alviar: 5-0).

IV. Communications

1. A letter was received from Bruce Lilienthal, Esq., who requested a continuance of the appeal consideration for 550 Fell St., scheduled for October 4, 1983. The Board granted a continuance to October 18, 1983.
2. Ted McCalla of Old St. Mary's Housing submitted written versions of his oral comments at the Public Hearing, September 20, 1983. He also submitted additional written comments for the Board's consideration.

3. Executive Director Hernandez received a letter from Allan H. Codgene, Esq., for presentation to the Board. He wanted to be advised if an older nonresidential building converted to residences - for which a certificate of occupancy is issued in 1983 - is subject to the jurisdiction of the Ordinance. The Board will discuss the matter at the October 4, 1983 meeting.

V. Director's Report

1. Director Hernandez submitted the statistical breakdown of public contact for the month of August 1983.
2. Mr. Hernandez stated that the Rent Board will begin accepting applications for Certified Capital Improvements this coming week. The staff is currently setting up the procedures for such certification.

VI. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. 1310 Turk St. #302
2. 228 Diamond St. #201
3. Parker St. #205

MSC: To accept the recommendations of the Hearing Officer and staff. (Baird/Alviar: 5-0).

- B. Eviction Counselor Janet Henley submitted a memo on the status of the cases at 2032 Mission St. (Kim) and 2055 California St. (Mizuhara).

VII. Appeal Hearing

1. 815- 25th Ave.

An appeal hearing was scheduled for 6:00 p.m. Since no tenants had arrived by that time, a 15-minute delay was granted. Proof of service to all parties was in the file, and the hearing was begun at 6:15 p.m. Appearing were landlady Mrs. Chrysanthy Leones; representative Elaine Bertolina, the landlady's daughter; and landlady's attorney Valerie Higgins.

The landlady appealed the Hearing Officer's decision granting a decrease in services award to the tenants when the formerly-included electricity costs were assessed to the tenants as an additional charge through the installation of individual meters. The Hearing Officer allowed the tenants to deduct from each month's rent the electricity costs on the previous month's bill. The landlords maintain that some of the tenants use more electricity than is reasonable and requested that the allocations allowed by the San Francisco Housing Authority be placed as a cap on the amount subtracted by each tenant.

MSC: To leave the record open for two weeks to allow the landlady to submit 1980 and 1982 PG&E bills. The Board will then reconvene the hearing for staff report on the billing.
(Baird/Alviar: 5-0).

VIII. Remarks from the Public

1. Bruce Lilienthal, Esq., addressed the Board with his concerns that the issues in 955 Burnett had not been understood and that the Commissioners might wish to address the issues at a policy level.
2. Ted McCalla drew the Board's attention to several items in his communications.

IX. Old Business

1. The Commissioners were given a revised draft of the Rules concerning substantial rehabilitation and certified capital improvements.

MSC: To continue discussion of the draft until the October 4, 1983, meeting.
(Alviar/Chinchilla: 5-0).

2. The Board was reminded that Ms. Henley had given the Commissioners a confidential memo several weeks ago. It was recommended that the memo be discussed in Executive Session.

X. Adjournment

The meeting was adjourned by Commissioner Saunders at 7:23 p.m.

9/30/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, October 4, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

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I. Call to Order

President Flynn called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Baird, Chinchilla, Flynn, Payne, Duggan
Commissioners not Present: Alviar, Saunders, Chan, Moy
Staff Present: Henley, Hernandez, Swartz, Wicks

Commissioner Curran appeared on the record at 5:39 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of September 27, 1983.
(Chinchilla/Payne: 4-0).

IV. Consideration of Appeals

A. 2623/2329 Mission St.

Landlord appealed Hearing Officer's decision concerning a renovated building. Hearing Officer determined that the extended period of temporary relocation required for the tenants must be discounted in figuring the passage of 12 months for the annual 7 percent increase; that operating and maintenance expenses incurred while the tenants were relocated cannot be charged to them; that many of the expenses for the property should be apportioned between the commercial and residential units; that the landlord had not carried his burden of proof for comparables.

MSW: To deny the appeal. (Chinchilla/Baird)

It was the consensus of the Board to defer the case for one week for discussion October 11, 1983.

B. 1941 Mission St.

Landlord appealed Hearing Officer's decision granting an award of \$140 for combined decreases in service. Landlord maintained that a court stipulation between the parties covered all complaints each party had against the other; that the same issues brought to the Rent Board were resolved by an \$80 settlement as part of the stipulation.

MSW: To vacate the Hearing Officer's decision and accept the appeal on the record, taking judicial notice of the stipulation.
(Curran/Chinchilla)

- MSC:¹ To accept the landlord's appeal on the record.
(Curran/Chinchilla: 5-0).
- MSW:² To set the reasonable value of the decrease
in services at \$80; and that if this amount has
been satisfied pursuant to the stipulation
reached in Municipal Court, no money is now
owing the tenant. (Curran/Chinchilla: 4-1).

C. 67 A Woodward

Landlord appealed Hearing Officer's decision awarding tenant a 90 percent rent reduction for decreases in service for loss of/malfunctioning of stove, refrigerator, bathroom sink, sewer pipes; for pest problem, and peeling paint. Landlord protested that his request for a second continuance was unfairly denied; that the tenant had withheld several months rent and should not be reimbursed for rents not actually paid.

- MSF: To deny the appeal. (Baird/Chinchilla: 2-3).
- MSC: To accept the appeal and remand it to a new
Hearing Officer, to be consolidated with the
pending eviction case. (Curran/Payne: 3-2).

V. Communications

1. Bruce Lilienthal, Esq., requested a continuance of the appeal hearing for 955 Burnett Ave., scheduled for October 18. The Board granted the continuance.
2. Teresa Bright, Esq., asked for a reopening of the appeal hearing for 1827- 9th Ave., heard by the Board July 12.

MSC: To deny the request. (Baird/Curran: 5-0).

3. Allan Cadgene, Esq., appeared to discuss his earlier letter to Director Hernandez. It was the consensus of the Board to schedule a public hearing in the next two months to solicit discussion on the issue of conversion of nonresidential buildings to artist live-work space. Among the issues for discussion will be whether such renovation will qualify the property for exemption from the Ordinance, since certificates of occupancy would be issued after 1979. Commissioner Payne offered to compile a mailing list for the public hearing.

VI. Old Business

- A. The Commissioners discussed the proposed Rules concerning substantial rehabilitation and certified capital improvements.

MSC: To adopt the Rules as redrafted.
(Chinchilla/Curran: 4-1).

- B. Staff member Laura Swartz submitted a sample memo, capital improvement certification form, and fee schedule to accompany the new capital improvement certification process.
- C. The Commissioners went into Executive Session at 7:55 p.m. to discuss the confidential memo submitted by Eviction Counselor Janet Henley. They adjourned the Executive Session at 8:22 p.m.
- D. Commissioner Payne requested that Old Business items be included in the written agenda.

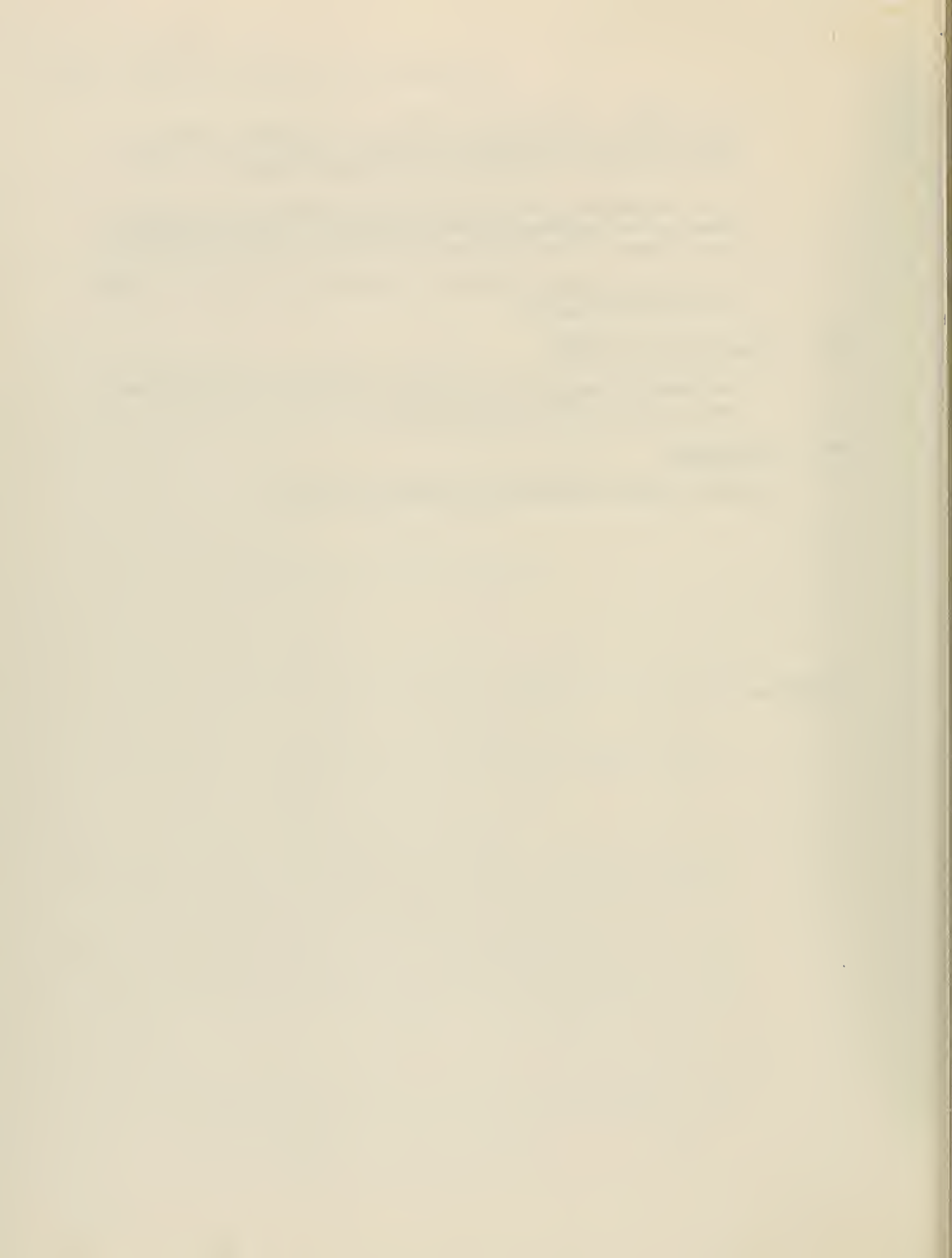
VII. Remarks from the Public

- 1. Ted McCalla proposed several further changes in the draft Rules for certified capital improvements.

VIII. Adjournment

President Flynn adjourned the meeting at 8:24 p.m.

10/6/83:ap





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, October 11, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:38 p.m.

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II. Roll Call

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Commissioners Present: Chinchilla, Flynn, Payne

Commissioners not Present: Alviar, Baird, Saunders, Curran, Moy

Staff Present: Henley, Wicks

Commissioner Chan appeared on the record at 5:42 p.m. and went off the record at 7:17 p.m. Executive Director Hernandez appeared on the record at 7:00 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of October 4, 1983, with the following corrections: Page², item B, Consideration of Appeals: "MSC²"; page 3, VII Remarks from the Public should read: "Ted McCalla brought the Board's attention to several of his earlier-proposed changes in the draft Rules for certified capital improvements." (Chinchilla/Payne: 3-0).

IV. Consideration of Appeals

A. 455 Cole St.

Landlord appealed Hearing Officer's decision awarding tenant for decreases in service when the central heating system provided by the landlord was converted to individually-metered heaters, the cost to be borne by each tenant. The landlord maintained that he had compensated for the new charge by not yet imposing a 7 percent annual increase or passing on the costs of the new heaters. Landlord further maintained that the decrease amount had been incorrectly calculated.

MSC: Remand to the same Hearing Officer for technical corrections on the PG&E calculations and to consider the capital improvements costs.
(Payne/Chinchilla: 3-0).

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B. 1376 Alabama St.

Landlord appealed Hearing Officer's decision that a turnover in the identity of- but not the number of -tenants did not constitute vacancy decontrol since the landlord was always aware that three tenants resided in the unit. An increase requested because of a new tenant was therefore found to be improper.

It was the consensus of the Board to put the case over for one week.

C. 733 Chestnut St.

Landlord appealed Hearing Officer's decision denying all operating and maintenance and some capital improvement costs because of inadequate documentaion. Landlord submitted clarifying evidence in support of the appeal.

MSC: To remand to a new Hearing Officer to make technical corrections (page 4, refrigerator) and to reconsider the capital improvements that were denied although apparently proved. (Chinchilla/Payne: 3-0).

D. 860 Sutter St.

Landlord appealed Hearing Officer's decision concerning the amount awarded a residential hotel tenant for decreased services resulting from his loss of dining room privileges.

MSC: To remand the case to a new Hearing Officer to reconsider the value of the services decreased and to determine if monies awarded tenant balance out the back rent not paid. (Payne/Chinchilla: 3-0).

E. 2623/2629 Mission St.

Landlord appealed Hearing Officer's decision concerning a renovated building. Hearing Officer determined that the extended period of temporary relocation required for the tenants must be discounted in figuring the passage of 12 months for the annual 7 percent increase; that operating and maintenance expenses incurred while the tenants were relocated cannot be changed to them; that many of the expenses for the property should be apportioned between the commercial and residential units; that the landlord had not carried his burden of proof for comparables.

MSC: To accept the case de novo for a hearing at the Board level. (Payne/Flynn: 3-1).

V. New Business

1. President Flynn asked that the staff provide the Commissioners with copies of Supervisor Britt's proposed amendments to the Ordinance and with copies of the adopted Rules concerning certified capital improvements.

VI Director's Report

1. Director Hernandez was not present to give a report as he was at Channel 2 taping a 15-minute program on eviction support services on "Aqui y Ahora."

VII. Appeal Hearing

1. 4168- 24th St., Apt. C

A hearing was scheduled for 6:00 and began on the record at 6:12 p.m. Appearing were Frederick and Richard Avansino, Landlord-Appellants; Vivian Gelles, Tenant-Respondent; and her attorney, William Cahill.

Landlord appealed Hearing Officer's determination that a settlement reached by the parties included \$202.12 for base rent and \$37.88 for capital improvements. Landlord maintained that the agreement contemplated a base rent of \$240 and that capital improvement costs were to be assessed as an additional charge.

MSF: To set the base rent at \$240.
(Payne/Flynn: 2-2).

MSC: To set the rent at \$240, pursuant to the settlement agreement, such amount to include \$16.88 for capital improvements; that a 7 percent increase of \$16.80 will be effective as of July 1, 1983, with the balance due in two payments.
(Duggan/Chinchilla: 3-1)

2. 35 Reed St.

An appeal hearing was scheduled for 6:15 p.m. and began at 7:04 p.m. Appearing were Landlord-Appellant Robert E. Woodcock and his attorney Nancy Lenvin, as well as Tenant-Respondent Carol Hay and her representative Diana Lewis.

Landlord appealed Hearing Officer's decision de novo on remand, granting tenant awards for decreases in service and failures to repair, including conditions existing when the tenant began her initial tenancy. Landlord maintains that the money award to tenant is improper and beyond the jurisdiction of the Board.

MSF: To affirm the Hearing Officer's decision.
(Duggan/Chinchilla: 2-2).

It was the consensus of the Board to put the case over for discussion until October 18, 1983.

VIII. Calendar Items

1. October 18, 1983:

Five appeal considerations; 35 Reed St., appeal hearing from October 4, 1983 to be decided.

2. October 25, 1983:

Four appeal considerations; two appeal hearings.

IX. Adjournment

President Flynn adjourned the meeting at 7:55 p.m.

10/13/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, October 18, 1983 at 5:30 p.m. at the State Building

350 McAllister St. #1195

I. Call to Order

Vice-President Saunders called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Alviar, Baird, Chinchilla, Moy,
Saunders, Curran, Payne.
Commissioners Not Present: Flynn
Staff Present: Hernandez, Wicks

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Commissioner Chan appeared on the record at 5:50 p.m.;
Commissioner Duggan appeared on the record at 6:02 p.m.

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III. Approval of the Minutes

MSC: To approve the minutes of October 11, 1983,
with the following corrections:

Page 1, II: "Commissioner Duggan appeared
on the record at 6:00"; page 2, E: "cannot
be charged..." (Chinchilla/Baird: 5-0)

IV. Consideration of Appeals

A. 1321 San Bruno Ave.

Landlord appealed Hearing Officer's decision awarding a 40% decrease
in services grant for a 2 year period because of significant habit-
ability problems. Tenants had withheld rent for several months be-
cause of the defects. Landlord served tenants with three different
notices to vacate; Hearing Officer also found a wrongful eviction.

MSC: To accept the appeal de novo at the Board
level and consider the eviction issue in
conjunction with the decrease in services
issue. (Baird/Alviar: 4-1)

B. 444 Lombard St.

Landlord appealed Hearing Officer's decision disallowing P.G.&E.,
operating and maintenance, and some capital improvement costs be-
cause of inadequate documentation.

MSC: To remand the case to a new Hearing Officer to
consider new evidence submitted on the issues
of P.G.&E. and capital improvement costs.
(Chinchilla/Alviar: 5-0)

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C. 1822-8th Ave., #3

Landlady appealed Hearing Officer's decision denying a 35% rent increase since it was the second increase in 12 months and had not been petitioned for. Landlady maintains that tenant agreed to the increase in consideration for having a co-tenant and for not vacating when owner requested she do so to allow owner's relatives to occupy the unit.

MSC: To hear the case de novo at the Board level.
(Baird/Alviar: 5-0)

D. 550 Fell St.

Landlord appealed Hearing Officer's decision awarding tenants an ongoing 10% reduction in rent - as well as a rebate of 10% since the commencement of the tenancies - for decreases in service. Landlord contends that the issues were settled by stipulation in Municipal Court; that owner was out of the country and did not get notice of the hearing and was represented by an unauthorized party; that it was not Rent Board policy to make such across-the-board grants.

MSC: To remand the case to a new Hearing Officer to consider the decrease in service and the related eviction issue in a de novo hearing.
(Chinchilla/Baird: 5-0)

E. 1376 Alabama St.

Landlord appealed Hearing Officer's decision that a turnover in the identity of - but not the number of - tenants did not constitute vacancy decontrol since the landlord was always aware that three tenants resided in the unit. An increase requested because of a new tenant was therefore found to be improper.

MSC: To deny the appeal. (Alviar/Moy: 5-0)

V. Remarks from the Public

1. The landlord from 1376 Alabama made several comments about the case.

VI. Communications

1. Susan Girtler, Attorney for the Tenant at 955 Burnett, asked for a postponement of the Appeal Hearing scheduled for October 25, 1983. The postponement was granted.
2. The Staff provided the Commissioners with one of the latest drafts of the proposed Britt Amendment.
3. A copy of the Staff statistics for September 1983 was given to the Board.

VII. Director's Report

1. Executive Director Hernandez mentioned his appearance last weekend on "Aqui y Ahora." He will be heading a class on rent law to be given to paralegals on October 19, 1983.

2. Staff member Laura Swartz is speaking to several community groups on the San Francisco Rent Law in the near future. She and Commissioner Payne will offer a presentation to the Pacific Heights Neighborhood Council on October 25, 1983.
3. A Brown Bag Luncheon training session for Hearing Officers on November 4, 1983 (12:00-2:00 p.m.) will be held to explain the new capital improvement certification process. Director Hernandez stated that approximately 8 applications for capital improvement certification have been received.

VIII. Old Business

1. The parties at 35 Reed requested an extension of time before re-appearing before the Board, as they are working on a settlement agreement. The extension of one week was granted.
2. Staff member Alicia Wicks stated that she will be sending a special form for appeal hearings so that all parties are aware they can personally testify at that level of Board proceedings.
3. Commissioner Payne reported on considerable interest in the artist community for a public hearing on the issue of conversion of nonresidential buildings to artist live-work space. Commissioner Payne is working on data to contribute to a mailing list. The Commissioners plan to hold a Public Hearing on the issue on December 13, 1983, at 6:30 p.m.

IX. Adjournment

Vice-President Saunders adjourned the meeting at 6:45 p.m.

10/21/83:db



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, October 25, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Chinchilla; Flynn; Saunders; Moy; Payne

Commissioners not Present: Alviar; Baird; Curran

Staff Present: Hernandez; Wicks

Commissioner Chan appeared on the record at 5:40 p.m. Commissioner
Duggan appeared on the record at 6:39 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of October 18, 1983.
(Chinchilla/Saunders: 3-0).

IV. Consideration of Appeals

A. 725 Treat St.

Landlord appealed Hearing Officer's decision allowing a decrease in
services award for loss of exclusive use of several rooms and a
patio which tenant rents in landlords' Victorian house. In his
appeal, landlord raised the issue of owner-occupancy for the first
time.

MSW: To deny the appeal. (Saunders/Chinchilla: 3-0).

MSC¹: To rescind the previous vote.
(Saunders/Chinchilla: 3-0).

MSC²: To schedule the case before the Board for a hearing
on the limited issue of whether the property is
outside of Rent Board jurisdiction because of owner-
occupancy. (Saunders/Chinchilla: 3-0).

B. 340 Hayes St. #307

Landlord appealed Hearing Officer's determination that tenant experienced
a reduction in services because of cockroach infestation; and that land-
lord had failed to perform ordinary maintenance and repair in terms
of plumbing problems, insecure fixtures, and structural rot. Landlord
maintained that his agent was unable to find the hearing room or
Hearing Officer. Tenant maintains that said agent attended a hearing
with him at the Rent Board only two weeks earlier.

It was the consensus of the Board to continue the case for one week.

C. 129 Ord St. #129

Landlord appealed Hearing Officer's decision that the long-standing practice in the unit of allowing three tenants and no pets created an "oral lease by implication" that arose when the initial tenant moved, leaving a subsequent co-tenant in possession. Landlord maintains that the later occupancy of two additional tenants- in violation of the rental agreement made with the initial tenant- entitled landlord to increase the rent or evict the tenants. Hearing Officer determined that three tenants were allowed, the rent would remain the same, and that landlord could demand the removal of the pets.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Saunders/Chinchilla: 3-0).

D. 1000 Chestnut St. #14 A

Landlord appealed Hearing Officer's decision finding that landlord's demand that tenant share his parking space or pay an additional \$100 monthly constituted a decrease in services since tenant had exclusive use of the space for nine years. Three weeks after receipt of the parking increase, tenant received an eviction notice based on the intent of the owner's son to occupy the unit. Hearing Officer found the eviction improper in that comparable units were available for the son and that landlord refused tenant's offer to voluntarily relocate to a lesser unit.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Saunders/Chinchilla: 3-0).

V. Communications

1. The parties from 35 Reed St. furnished the Commissioners with copies of their settlement agreement.

MSC: To set aside the Hearing Officer's decision in this case and ratify the settlement agreement reached by the parties. (Saunders/Chinchilla: 3-0).

VI. Director's Report

1. Director Hernandez mentioned that the Rent Board had received numerous inquiries about the public hearing of October 26, 1983, on the proposed Britt amendment.
2. Mr. Hernandez discussed the possibility of introducing a computer into office procedures in approximately eight months.
3. The new certified capital improvement process was mentioned by Mr. Hernandez.

VII. Old Business

1. Commissioner Payne described his recent tour of artists' live-work spaces. He furnished the Board with mailing lists and labels for artists' groups to be given notice of the public hearing December 13, 1983. At that time the issue of conversion of non-residential buildings to artist live-work space will be discussed.

VIII. New Business

1. President Flynn discussed the proposed Britt amendment and the SNLAF report on evictions.

IX. Appeal Hearing

A. 1762 - 9th Ave.

A hearing was scheduled for 6:00 p.m., and began at 6:09. Present were landlord Max Yagerman and tenant Yvonne Golden. Landlord appealed Hearing Officer's decision disallowing an unpetitioned-for increase above 7 percent, determining that the property at issue was not owner-occupied and not exempt from the Ordinance. The premises consist of a lot with two buildings of three units each. Tenant and landlord both live in the front unit; landlord has also lived in several of the back units. The Hearing Officer held that the property consisted of six units, controlled by the Ordinance.

MSC: To vacate the Hearing Officer's decision;
that the building in which the owner lives is
exempt from the Ordinance and the Board there-
fore has no jurisdiction over that building.
(Saunders/Chinchilla: 3-0).

X. Remarks from the Public

1. Landlord Christen Wegener of 725 Treat Avenue spoke about his case.
2. Landlord John Randle inquired about the function of the "Remarks from the Public" part of the agenda. He also asked about the use of an impartial third party to verify the accuracy of tenant habitability complaints.

XI. Calendar Items

1. Because November 8, 1983, is election day, the Commissioners wish to reschedule 955 Burnett, set for that night. Some members of the Board will be unable to attend and wish to cancel the November 8 meeting.

XII. Adjournment

President Flynn adjourned the meeting at 6:48 p.m.

City and County of San Francisco

Residential Rent Stabilization and Arbitration Board



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 1, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

President Flynn called the meeting to order at 5:33 p.m.

II. Roll Call

Commissioners Present: Baird; Chinchilla; Flynn; Curran; Chan; Moy

Commissioners not Present: Alviar; Saunders

Staff Present: Henley; Hernandez; Wicks

Commissioner Duggan appeared on the record at 5:55 p.m. Commissioner Payne went off the record at 6:02 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of October 25, 1983, with the following correction: Page 1, IV-A: "MSC: To deny the appeal." Chinchilla/Payne: 5-0).

IV. Consideration of Appeals

A. 2676 Bush St. #1, 4, 5

Landlord appealed Hearing Officer's decision allowing decrease in services awards and disallowing an increase above 7 percent for which a petition was not filed. Landlord maintained that no evidence was presented to substantiate some of the decreases and that other problems had already been resolved.

MSC: To remand to a new Hearing Officer for a de novo hearing. (Chinchilla/Payne: 4-1).

B. 1151 Post St.

Landlord appealed Hearing Officer's decision from a de novo hearing on remand. Landlord objected that the decision was based on the "defective" decision reached at the original hearing, for which landlord had not received notice and was not present.

MSC: To accept the appeal for a de novo hearing at the Board level. (Chinchilla/Flynn: 5-0).

C. 2636 Gough St. #203

Landlord appealed a portion of Hearing Officer's decision allowing a decrease in service award resulting from a rent increase for

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garage space formerly included as part of the rent. Landlord disputed the amount of the award.

MSC: To accept the appeal and remand the case to the Hearing Officer for possible technical corrections. If the Hearing Officer cannot make technical corrections, the case shall be returned to the Board for further assessment.
(Payne/Chinchilla: 5-0).

D. 340 Hayes St. #307

Landlord appealed Hearing Officer's determination that tenant experienced a reduction in services because of cockroach infestation; and that landlord had failed to perform ordinary maintenance and repair in terms of plumbing problems, insecure fixtures, and structural rot. Landlord maintained that his agent was unable to find the hearing room or hearing officer. Tenant maintains that said agent attended a hearing with him at the Rent Board only two weeks earlier.

MSF: Affirm the Hearing Officer's decision as to the reduction in services; reverse the decision as to the annual 7 percent increase and reinstate this amount. (Chinchilla/Baird: 2-3).

MSC: To accept the case de novo at the Board level.
(Payne/Curran: 3-2).

V. Communications

A. The appeal for 2144 Green St. was withdrawn by the Tenant-Appellant.

VI. Appeal Hearing

A. 2623/2629 Mission St.

A hearing was scheduled for 6:00 and began at 6:15 p.m. Present were landlords Janet and Edward Chen, managers Carmen and Howard Dowell, and tenant Anita Rebane.

Landlord appealed Hearing Officer's decision concerning a renovated building. Hearing Officer determined that the extended period of temporary relocation required for the tenants must be discontinued in figuring the passage of 12 months for the annual 7 percent increase; that operating and maintenance expenses incurred while the tenants were relocated cannot be changed to them; that many of the expenses for the property should be apportioned between the commercial and residential units; that the landlord had not carried his burden of proof for comparables.

- MSF: To affirm the Hearing Officer's decision as to the tolling of the anniversary dates - while the tenants were vacated from the building-on the issue of banking. (Baird/Curran: 2-2)
- MSC¹: To uphold the Hearing Officer's decision regarding tolling of the anniversary date for the banking increase, insofar as this determination is based on findings of lengthy vacancy (i.e., over 60 days) and innacurate notice as to the length of the expected vacancy. (Curran/Flynn: 3-1)
- MSC²: To ratify the settlement amount of \$12 per month for operating and maintenance, effective as of the time noticed. (Chinchilla/Curran: 3-1).
- MSC³: To allocate the operating and maintenance expenses between the residential and commercial units based on the information supplied by the landlord in his appeal; to affirm the Hearing Officer's decision as to comparables. (Baird/Curran: 4-0).

VII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

1. Eviction Counselor Janet Henley reported that the property at 203 Mission is for sale.
2. Ms. Henley reported that the tenant at 1385- 16th Ave. had successfully defended an eviction suit in Court.
3. The landlord at 1000 Chestnut was sent a letter cautioning him about pursuing the eviction matter at that address. Ms. Henley informed the Board that an unlawful detainer has been issued, and she requested that the Board make a determination if any further action should be taken.

VIII. New Business

1. Mr. Hernandez discussed the wording for notice of the public hearing December 13, 1983. It was suggested that he work with Commissioner Payne on this project.

IX. Calendar Items

1. There will be no meeting of the Rent Board on November 8, 1983, because of Election Day.

X. Remarks from the Public

1. Landlord John Randle made various comments on the appeal process.

XI. Adjournment

President Flynn adjourned the meeting at 8:22 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, November 15, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

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I. Call to Order

President Flynn called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present: Flynn, Duggan, Moy, Payne
Commissioners not Present: Baird, Alviar, Chinchilla, Saunders, Chan
Staff Present: Hernandez, Francis, Henley, Swartz

Commissioner Curran appeared on the record at 5:35 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of November 1, 1983, with
the following correction: Page 1, II, Commissioner
Payne was present at the call of the roll.

IV. Consideration of Appeals

A. 1950 Gough St.

Hearing Officer dismissed this landlord petition with prejudice because the landlord did not appear at the hearing and did not request a postponement or offer an excuse for non-appearance.

MSW: To deny the appeal. (Payne/Flynn)

MSC: To accept the appeal for the purpose of amending the decision to reflect that the landlord's petition has been dismissed without prejudice, so that the landlord may petition again.
(Curran/Payne: 4-0).

B. 1690 North Point

Hearing Officer granted certain PG&E pass-throughs contested by several tenants. One tenant appealed on the basis that the Rules and Regulations governing PG&E pass-through are in violation of PUC Rule 18.

MSW: To accept and remand. (Payne)

MSC: To deny the appeal. (Payne/Curran: 4-0).

C. 2011 Vallejo

Landlord appealed the denial of a 7 percent annual increase since he had made most of the requested repairs. Tenant responded that

an eviction was also being attempted, which he contended was and the Hearing Officer found to be retaliatory.

MSC: To deny the appeal and uphold the findings and recommendations of the Hearing Officer.
(Payne/Curran: 3-1).

D. 1945 Clay St. #7

Landlord appealed the decision wherein the Hearing Officer granted a decrease in rent for reduction of services (failure to provide heat) to this unit, where the tenants had removed their radiator. The tenants had insulated their unit and relied on the residual heat of the steam system, however.

MSC: To deny the appeal. (Payne/Curran: 3-1).

V. Communications

None

VI. Appeal Hearing

A. 725 Treat St.

This hearing was scheduled for 5:45 p.m. and began at 5:55 p.m. Present were Christen Wegener, landlord, and Russell Ware, tenant.

Landlord appealed the Hearing Officer's order of a rent reduction for tenant Gardner on several grounds. He testified that the Tenant-Petitioner, Wade Gardner, had moved. Gardner was not present and no forwarding address was available. Landlord had paid tenant his rent reduction as ordered. The landlord contends that the building is exempt due to owner-occupancy.

MSC: To decline to hold a hearing on this matter due to mootness. The tenant's due process rights would be violated due to lack of notice of the hearing, and the owner is advised to resolve any damage issue in the courts.
(Curran/Duggan: 3-1)

B. 1321 San Bruno

This hearing was scheduled for 6:00 p.m. and began at 6:15 p.m. Present were Alan B. Hoffman, attorney for tenants, Jon Orovecz, tenants' witness, and tenant Maria Cortez, translator Mary Lou Torres, and Gloria Armendariz, attorney for landlord.

Landlord appealed Hearing Officer's decision awarding a 40 percent decrease in services grant for a two year period because of

significant habitability problems. Tenants had withheld rent for several months because of the defects. Landlord served tenants with three different notices to vacate; Hearing Officer also found a wrongful eviction.

It was the consensus of the Board to put the case over one week to allow the parties to reach a settlement which would permit necessary improvements to be made without requiring displacement of the tenants. If no settlement can be reached, the Board will decide the case.

C. 1822- 8th Ave.

The hearing was scheduled for 6:30 p.m. and was commenced at 6:50 p.m. Present were Dennis Hyde, attorney for landlord, Henry Chan, witness for landlord, Jeanie Gee, landlord, George Smith, attorney for tenants Gina Di Leonardo Paisley, tenant, Brian Paisley, tenant, Susan Wagman, witness for tenant.

Landlady appealed Hearing Officer's decision denying a 35 percent rent increase since it was the second increase in less than 12 months and had not been petitioned for. Landlady maintains that tenant agreed to the increase in consideration for having a co-tenant and for not vacating when owner requested she do so to allow owner's relatives to occupy the unit.

MSC: To uphold the decision of the Hearing Officer, with an amendment thereto, reflecting that factual dispute does exist (strike statement on page 1 of decision). (Payne/Curran: 4-0).

VII. Consideration of Alleged Wrongful Evictions

A. Report from Staff

Miss Henley prepared a memo to the Board and a draft notice to John Fox, owner of 917 Folsom Street, regarding oral eviction notices to tenants in this residential hotel. The Board unanimously agreed that the letter (notice) should be sent to Mr. Fox, and that wrongful eviction hearing should be scheduled in two weeks to be heard by the Board.

VIII. Adjournment

President Flynn adjourned the meeting at 9:00 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION AND ARBITRATION BOARD, Tuesday, December 6, 1983, at
5:30 PM at the State Building, 350 McAllister St. #1195

I. Call to Order

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President Flynn called the meeting to order at 5:32 PM. DEC 16 1983

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II. Roll Call

Commissioners Present: Flynn, Saunders, Chan, Moy, Payne

Commissioners Not Present: Alviar, Baird, Chinchilla, Duggan

Staff Present: Hernandez, Wicks

Commissioner Curran appeared on the record at 5:42 PM. Commissioner
Payne went off the record at 6:28 PM.

III. Approval of the Minutes

MSC: To adopt the Minutes of November 29, 1983.
(Saunders/Chan: 3-0)

IV. Consideration of Appeals

A. 1301 Leavenworth

Tenant appealed Hearing Officer's decision allowing an award
for reduction in services because of lack of hot water for
2½ months. Tenant felt the award of \$100/month when no hot
water was supplied and an on-going \$50/month for inadequate
hot water was not sufficient compensation. Landlord also
appealed, maintaining that the award was too large.

MSF: To uphold the Hearing Officer's decision and
deny both appeals. (Saunders/Chan: 2-1)

The Commissioners discussed the number of votes needed to take
action on appeal considerations and Board appeal hearings. The
Commissioners agreed that at least 3 votes for or against a
motion will be required; if there are fewer than 3 such votes,
the matter will be put over for another vote when more voting
Board members are present.

MSC: To remand to a new Hearing Officer for another hearing.
The Board's rationale for the vote is based on the
following: the award seems excessive; there was no
corroborating evidence for tenant's contentions; the
Hearing Officer apparently based the decision on a
previous year's case.

(Chan/Saunders: 4-0)

B. 1250-46th Ave.

Landlord appealed Hearing Officer's decision granting tenant an award for decreased services in conjunction with gas shut-off for a gas leak. Landlord and tenant had an oral agreement for tenant to make some repairs in his unit, with materials costs to be borne by the landlord. Landlord asserted that tenant delayed the repair process and had already withheld rent over this matter.

MSC: To accept the appeal for a de novo hearing at the Board level. (Saunders/Curran: 4-0)

C. 2100 Post #15

Landlord appealed Hearing Officer's decision granting tenant a decreased services award for lack of heat for two years. Landlord did not appear at the hearing but complained on appeal that the tenant's allegations were false.

MSC: To uphold the Hearing Officer's decision and deny the appeal. (Curran/Saunders: 4-0)

V. Communications

- A. Don Hesse--Fair Housing Coordinator of the Human Rights Commission--referred to Director Hernandez a letter written to Assistant District Attorney David Moon. The letter expressed Mr. Hesse's concerns about Rent Board interpretation of the effects of the birth of a child on an existing tenancy.
- B. The appellant from 340 Hayes wrote to request a continuance of the appeal hearing scheduled for that property, as the parties are attempting to reach a settlement. The Commissioners granted the continuance upon the understanding that the appeal hearing would be rescheduled if the parties could not arrive at a settlement.
- C. Attorney Jung submitted written comments and documents with his concerns about the capital improvement certification process.

VI. Appeal Hearing

1151 Post

An appeal hearing was scheduled for 6:00 PM and began at 6:38 PM. Attending were landlord-appellant M&M Property, through its representative, Richard McGinnis; manager Frank Trotter; tenant-respondent Dwight Dougherty; and witnesses Joseph Clack and Mary Alice Mabee. At issue was an alleged decrease in housing services.

Landlord appealed Hearing Officer's decision from a de novo hearing on remand. Tenant had been granted a \$900 rent rebate (30%) for a period of time when he had no or little heat. Tenant had also complained of other housing problems.

Tenant offered oral and written evidence, including copies of Building Inspector reports citing the landlord for various defects. Landlord's manager and representative maintained that all tenants had access to the building thermostat and routinely regulated it to their personal satisfaction. They denied the building had been without heat and stated that a new heating system was being installed.

MSC: To reverse the Hearing Officer and set aside the decision; to instruct the tenant to repay any sums which he has withheld pursuant to the vacated decision.

(Curran/Saunders: 3-1)

VII. Director's Report

- A. Director Hernandez reported that approximately 400 notices of the December 13, 1983, public hearing had been sent to artists' groups and other interested parties. Staff member Alicia Wicks will meet with members of the Bay Area Lawyers for the Arts and interested members of the art community to discuss the artists' live-work space issue.

VIII. Consideration of Allegations of Wrongful Evictions

A. Report from Staff

MSC: To accept the advice of the Staff, with the exception of 2724 Lyon, striking from the report the following:
"and that the landlady should be sent a letter of admonition." (Curran/Saunders: 4-0)

- B. Eviction Coordinator Henley referred to the Commissioners copies as follows:

1. Letter to David Moon of the D.A.'s office concerning cases referred from the Rent Board for possible prosecution.
2. Mr. Moon was also sent a letter concerning 1499 California St.

IX. Remarks From the Public

Mr. Jung referred the Board to his written materials about problems with the capital improvement certification process and asked the Board to consider the situation. The matter will be addressed at the December 20, 1983, meeting.

X. Calendar Items

--December 13, 1983: Public Hearing
--December 20, 1983: 2 appeal considerations
--December 27, 1983: NO MEETING

XI. Adjournment

President Flynn adjourned the meeting at 8:25 PM.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD, Tuesday, December 13, 1983 at 5:30 p.m. at the State Building 350 McAllister St. #1195

I. Call to Order

Commissioner Payne called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Alviar, Chinchilla, Chan, Moy, Payne
Commissioners not Present: Baird, Flynn, Saunders, Curran, Duggan
Staff Present: Hernandez, Wicks

III. Approval of the Minutes

MSC: To approve the Minutes of December 6, 1983.
(Alviar/Moy: 4-0).

IV. Appeal Considerations

A. 1270 La Playa

Seven tenants appealed Hearing Officer's decision suspending the annual 7 percent increase for failures to repair and maintain the property; but disallowing an award for decreases in service, since such decreases were not shown to be substantial. Landlord suggested that the items involved in the appeal had been remedied, but tenants cited numerous items which they felt were continuing problems and cited a building inspector's report for verification.

MSW: To uphold the Hearing Officer's decision and deny the appeal. (Alviar/Chinchilla).

MSC: To remand to a new Hearing Officer for a new hearing and possible mediation.
(Chinchilla/Alviar: 3-1).

B. 57 Octavia St.

Tenants appealed Hearing Officer's decision granting a 10 percent rent reduction for decreases in service because of inadequate heating; and reducing the annual 7 percent increase to 5 percent because of habitability problems. Tenants objected to the size of the awards, stating that the reductions far underestimate the magnitude of the problems.

MSC: To put the case over for later consideration.
(Chinchilla/Alviar: 4-0).

It was the consensus of the Board to call a recess and later reconvene to discuss the case. Upon reconvening, they passed the following:

MSC: To uphold the Hearing Officer and deny the appeal.
(Chinchilla/Alviar: 4-0).

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C. 473 Elizabeth

Tenant appealed Hearing Officer's decision allowing landlord an increase based on capital improvements and granting tenants a small reduction in services award for loss of use of facilities during the remodeling. Hearing Officer denied the tenant's request to delay the annual 7 percent increase for failure to repair. Tenant felt the capital improvement costs had not been adequately documented, that some repairs were included, and that the rent reduction was too small.

MSC: To uphold the Hearing Officer and deny the appeal.
(Chinchilla/Alviar: 4-0).

V. Communications

- A. Staff member Laura Swartz gave the Commissioners a memo concerning the possible error of using "assessment" instead of "appraisal" in Rules Section 1.15 and 8.12. It was the consensus of the Board to discuss the matter at the December 20, 1983 meeting.
- B. Jerry Levitin, attorney for the landlord at 1668 Market St., wrote President Flynn to express his concern that the Board had referred his case to the City Attorney for direction, rather than either accepting or denying the appeal.

MSC: To accept the appeal de novo at the Board level.
(Alviar/Chinchilla: 4-0).

- C. Michael S. Bell, Curatorial Assistant at the San Francisco Museum of Modern Art, wrote to thank staff member Alicia Wicks for discussing the artist loft issue with representatives of Bay Area Lawyers for the Arts.

VI. Director's Report

- A. Director Hernandez submitted the November 1983 counseling statistics.
- B. A copy of the Bay Guardian article on the public hearing issues was distributed to the Board.

VII. Old Business

- A. A hand-delivered letter and settlement agreement were received at the meeting from tenant's attorney for the case at 1321 San Bruno. The parties had requested a continuance to December 13, to attempt to reach a settlement.
- B. The Commissioners noted that they would discuss Don Hesse's letter on the effects of the birth of a child on an existing tenancy at

the December 20, 1983 meeting. It was suggested that Mr. Hesse be invited to the meeting. It was also suggested that Deputy City Attorney Kathryn Pennypacker be invited to discuss this issue as well as the issues in 1668 Market Street.

C. Reconvening of Hearing

815- 25th Ave.

After submission of PG&E bills and appropriate dates by the landlord, staff members calculated the average per-room savings to the landlord upon conversion to individual utility matters. The Hearing Officer had allowed a "floating" decrease in services award, with the amount of the previous month's PG&E bill to be deducted from the following month's rent. Staff calculations showed a monthly per-room savings to the landlord of \$8.04 per month.

MSC: To vacate the Hearing Officer's decision. To adopt staff calculations and grant a decrease of \$8.04 per room from each tenant's base rent. (Chinchilla/Moy: 4-0).

VIII. New Business

A. Director Hernandez informed the Commissioners that he would be giving them conflict of interest forms to be filled out in the near future.

IX. Public Hearing

Commissioner Payne convened the public hearing at 7:00 p.m.

The following interested parties spoke:

Mary-lynn Sonh - artist
Sylvia Fana - artist
Matthew Guiffrida - artist
Jim Faye - S. F. Tenant's Union
Daniel Reidy - artist attorney
Maryly Snow - artist
Marcia McGetrick - artist
Michael S. Bell - S. F. Museum of Modern Art
Paul H. O. - artist
Alma Robinson - Bay Area Lawyers for the Arts
Richard Mayer - National Artists Equity Assoc.
Richard Reinecciva - Julian Theater
Michael Berline - architect
Sando Counts - Treasurer: Project, Art, and
Kathryn Reasoner - artist

The following were among the issues discussed:

1. The need for artists to have protection against excessive rent increases and evictions.
2. The problem of satisfying the requirements of various city ordinances which are often in conflict: eg., building codes, zoning laws, etc.
3. The unique organization and requirements of artists' collectives which are self-governing and should perhaps be exempt from any rent control.
4. Concern that the artist community will be driven out of the city because of gentrification of the warehouses.

The hearing was closed at 8:20 p.m. The Commissioners decided to put the matter over a week for discussion at the December 20, 1983 meeting.

XI. Adjournment

Commissioner Payne adjourned the meeting at 8:24 p.m.

12/15/83:ap



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION
AND ARBITRATION BOARD, Tuesday, December 20, 1983 at 5:30 p.m. at the State Building
350 McAllister St. #1195

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I. Call to Order

President Flynn called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present: Alviar Baird, Chinchilla, Flynn, Payne
Commissioners not Present: Moy
Staff Present: Hernandez, Henley, Swartz

Commissioner Duggan appeared on the record at 5:33 p.m.
Commissioner Curran appeared on the record at 5:39 p.m.
Commissioner Chan appeared on the record at 5:54 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes December 13th, with the following
amendment on page 3: "Sando Counts - Treasurer, Project
Artaud." (Chinchilla/Alviar: 5-0)

IV. Consideration of Appeals

A. 728 Broderick

The prior owner of the property, not a party to the action, appealed the decision of the hearing officer. The tenant petitioned to have a number of prior increases imposed by the prior owner rescinded on the basis that they were illegally imposed. The tenant prevailed, and was awarded a refund of rent overpayments. The current landlord did not appeal.

MSC: To deny the appeal.
(Chinchilla/Alviar: 4-1)

B. 606 Post Street

The landlord appealed the decision of the hearing officer, claiming that the 7% guideline increase was not addressed in the decision. The landlord's petition for operating and maintenance, and utility pass-through was upheld.

MSC: To remand to the hearing officer so that
the 7% increase issue can be addressed.
(Payne/Curran: 5-0)

V. Communications

- A. Letter from David Moon. The Board requested that a letter will be drafted and sent to Arlo Smith with prior correspondence attached.
- B. Letters concerning artist's live-work space hearing of December 13, 1983. Commissioner Ralph Payne will frame a policy directive.

- C. Staff prepared a policy directive (1983-1) regarding a "statute of limitation" on decrease in services petitions and awards. The directive is changed as follows: "No consideration for such decrease will be given for periods beyond twelve months prior to the issue being raised, or before April 1, 1982, whichever is more recent."
- D. Letter was received from Roger Levin regarding Rent Board jurisdiction over security deposits, being a copy of a letter sent to City Attorney, Katherine Pennypacker.

VI. Director's Report

- A. Director Hernandez reported that the Planning Housing and Development Committee of the Board of Supervisor's passed out of Committee an amendment to the Ordinance permitting a peremptory challenge of a hearing officer by petitioner and/or respondent. He related to the Board the administrative difficulties this provision would create.

VII. Consideration of Evictions

1. 70 Terra Vista, #4
MSC: To accept the staff recommendation of no further action.
(Baird/Curran: 5-0)
2. 2366 -15th Avenue
MSC: To accept the staff recommendation of no further action.
(Baird/Curran: 5-0)
3. 2613 San Jose Avenue
MSC: To accept the recommendation of staff and set for hearing.
4. 1203 Clayton Street
MSC: To accept the staff recommendation. (Baird/Curran: 5-0)
5. 231 Frederick Street #1
MSC: To adopt the staff recommendation and take no further action.
(Baird/Curran: 5-0)

VIII. Old Business

- A. Regarding the birth of a child, the issue suggested in a letter from Don Hesse to David Moon, staff was directed to request that Mr. Hesse draft a letter to the Board or preferably, come to a meeting and discuss the issue.
- B. Ralph Payne will draft a policy directive regarding artist live-work space for the next meeting.
- C. Norman Lew, of the firm of Lew and Fong, representing an applicant for substantial rehabilitation certification, discussed the issue of changing regulations during the process of rehabilitation. He was advised that those regulations in effect at the time of application control certification.

- D. As for the apparant error in Rules 1.15 and 8.12, the Board ruled that no error exists; assessed is the correct term.

IX. Calendar Items

- A. Director Hernandez announced that there will be no Board meeting next week, December 27, 1983.

X. Adjournment

- A. The meeting was adjourned at 7:15 p.m.

12/20/83:db

